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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 319. 75

CHARLES G. FRANCKLYN AND WILLIAM S. HOYT, COMMITTEE OF THE PERSON AND ESTATE OF EDWIN HOYT, APPELLANTS,

vs.

AMASA SPRAGUE; WILLIAM SPRAGUE, INDIVIDUALLY; FANNY SPRAGUE, INDIVIDUALLY AND AS ADMINISTRATRIX OF AMASA SPRAGUE, DECEASED; MARY SPRAGUE, INDIVIDUALLY AND AS ADMINISTRATRIX OF WILLIAM SPRAGUE, DECEASED; THE A. & W. SPRAGUE MANUFACTURING COMPANY, AND ZECHARIAH CHAFEE, TRUSTEE, &c.

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FILED OCTOBER 1, 1883.

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1 In the Circuit Court of the United States for the District of Rhode Island. In Equity.

To the judges of the circuit court of the United States for the district of Rhode Island:

Edwin Hoyt, a citizen of the State of New York, a person of unsound mind, by Charles G. Francklyn and William S. Hoyt, both of the city of New York (the said Charles G. Franklyn, the husband of the sister of said Edwin Hoyt, being a British subject residing in said State of New York, and the said William S. Hoyt, the brother of said Edwin Hoyt, being a citizen of said State of New York), the next friends of said Edwin Hoyt, and who were duly appointed by the supreme court of the State of New York, as hereinafter set forth, the committee of the person and estate of said Edwin Hoyt, brings this his bill, against Amasa Sprague, William Sprague, individually, Fanny Sprague individually and as administratrix of the goods, chattels, and credits which were of Amasa Sprague, deceased, Mary Sprague, individually and as administratrix of the goods, chattels, and credits which were of William Sprague, deceased, the A.
2 & W. Sprague Manufacturing Company, and Zechariah Chafee, as trustee and assignee under certain indentures or deeds of trust made by the A. & W. Sprague Manufacturing Company, Amasa Sprague, William Sprague, Fanny Sprague, and Mary Sprague to him, the said Chafee, all of whom are citizens of the State of Rhode Island; and thereupon your orator complains and says as follows:

First. Heretofore at the city of New York, at a special term of the supreme court of the State of New York, held in and for the city and county of New York, at the court-house in said city of New York, on the 2d day of April, 1874, in a certain proceeding then pending in said court for the appointment of a committee of the person and estate of your orator, Edwin Hoyt, then known as Edwin Hoyt, junior, as a person of unsound mind, the said Charles G. Francklyn and William S. Hoyt were, by the order of said court, then and there duly made and entered, appointed the committee of the person and estate of your orator. Prior to such appointment a commission in lunacy had been duly awarded and issued against your orator, under which commission your orator was duly found and declared to be at the time of taking the inquisition thereunder, to wit, on the 27th day of March, 1874, a person of unsound mind, and to have been in the same state and unsoundness of mind since his birth. Your orator has been during his whole life, and is now, a person of unsound mind, incapable of transacting business or attending to or managing his affairs; he is of full age, having attained the age of twenty-one years on or about the 16th day of July, 1870; he resided with his father, Edwin Hoyt, in the city of New York, and was cared for by him up to the time of his said father's death, in May, 1874, and he has since resided and now resides in the State of New York. Your orator further shows on his information and belief as follows:

3 Second. Prior to the year 1843 Amasa Sprague and William Sprague, now deceased, were copartners in trade, doing business in the city of Providence and in other places in the State

of Rhode Island under the firm name of A. & W. Sprague. The business carried on by the said Amasa and William Sprague was chiefly the manufacture and sale of cotton cloths and prints, and was large and successful. In the course of the said business they accumulated large profits, and, for the purposes of the business, made extensive purchases of real estate in the said State of Rhode Island and elsewhere, the title to some of which was taken in the name of the said Amasa, and to some in the name of said William, and to some in the name of said A. & W. Sprague.

In the month of December, 1843, the said Amasa Sprague died intestate, leaving him surviving his widow, Fanny Sprague, and his two sons, Amasa and William, and two daughters, Almira and Mary Anna. On the 29th day of June, 1844, letters of administration on his estate were duly granted to the said Fanny Sprague by the probate court of the town of Cranston, Rhode Island, of which town the said Amasa was a resident at the time of his death. After the said letters of administration were issued the said Fanny did nothing as administratrix which by law she was required to do, and has never filed any account of her proceedings as administratrix as aforesaid.

The said firm of A. & W. Sprague was dissolved by the death of said Amasa Sprague, but all the property and assets of said firm remained after the death of the said Amasa in the possession and under the control of the surviving partner, William Sprague, who, instead of liquidating the affairs or accounting with the legal representatives of his deceased copartner, continued the business in the name of and with the assets of the said A. & W. Sprague, and by the use of the same greatly extended the business. He made
4 large additional purchases of real estate, the title to which was for the most part taken in his own name, and all of which was used for the purposes of the enlarged business and operations carried on by him as aforesaid. During all the time after the death of said Amasa, and until the month of October, 1856, a period of thirteen years, the said William Sprague continued the business in the original name of A. & W. Sprague, and so extended the same that the assets were greatly increased in value, the whole of said assets with their increase being in fact property in respect to which the said William Sprague was at all times liable to account to the legal representatives of his said deceased copartner, Amasa Sprague.

In the year 1856, and shortly before his death, the said William Sprague took into copartnership with himself his own son, Byron Sprague, and his nephews, the two sons of Amasa Sprague, viz., Amasa and William, who had but shortly prior thereto attained their majority.

The partnership thus formed remained in the possession and had the control of all the property and assets of the original firm of A. & W. Sprague, and the increase thereof, and enjoyed the good will of the original business. They continued the use of the name of A. & W. Sprague, and managed the business by means of the assets of the old firm, with their accumulations and additions, no new capital or means being added or contributed by either partner,

and no accounting had in respect of the share or interest of Amasa Sprague, deceased.

Third. Susan Sprague, a daughter of the said William Sprague, the elder, married Edwin Hoyt, of the city and State of New York, and, on the 28th day of October, 1853, died intestate in said State of New York, leaving as issue of her said marriage four children, viz., Sarah, William S., Susan S., and your orator, all of whom then were and ever since have been, and now are, residents of the said State of New York.

Fourth. After the said Byron, Amasa, and William had been admitted into partnership with William Sprague, the elder, the survivor of Amasa, and on or about the 19th day of October, 1856, the said William Sprague, the elder, died intestate, leaving him surviving his widow, Mary Sprague, his son Byron, and the said children of his said deceased daughter, his heirs and next of kin.

Letters of administration on his estate were duly granted to his widow, the said Mary Sprague, on the 8th day of December, 1856, by the probate court of the town of Warwick, R. I., of which town the said William Sprague, the elder, was a resident at the time of his death. Subsequently thereto the said Mary Sprague did nothing as the administratrix of the estate of the said William. She filed no inventory. Appraisers were appointed to appraise the value of her deceased husband's estate, but no such appraisement was ever made. She did not apply for, require, or procure any settlement of the accounts of the original firm of A. & W. Sprague (composed of Amasa and William Sprague, the elder), nor did she ascertain or take any steps to ascertain and realize the value of the interest of her deceased husband in the assets of the firm of A. & W. Sprague, or to procure an accounting and liquidation in respect thereto, but, on the contrary, suffered her son Byron and the two sons of Amasa, deceased, who, as the surviving partners of the firm of A. & W. Sprague, as it existed at the date of the death of said William Sprague, the elder, were in possession of all the property and assets of said last-mentioned firm, to remain in such possession, and to continue the use of the firm-name, and retain in their possession all of the said assets, and with them to carry on business in their own way, receiving from them, from time to time, money for her own support and personal use. The said Mary Sprague has never rendered any account of her proceedings as administratrix to the court which appointed her as aforesaid.

Fifth. Subsequently to the death of their grandfather, William Sprague, the elder, the said children of the said Susan Sprague and Edwin Hoyt, being minors and non-residents of the State of Rhode Island, letters of guardianship of their property were, on the 9th day of February, 1857, issued to the said Mary Sprague by the probate court of the town of Warwick.

Your orator further shows, upon information and belief, that the said Byron, Amasa, and William Sprague, and especially the said Amasa and William, being, as survivors of William Sprague, the elder, in the possession and control of all the property and assets used in the business during his lifetime, the legal representatives of

said Amasa Sprague, the elder, and of said William Sprague, the elder, not calling them to account in respect to the several interests of said deceased copartners therein, and being desirous of retaining such possession and control without interference, and of managing the business as they chose, without any legal accounting, agreed and combined together to keep all the property and assets in their own possession, and to control and carry on the business as they saw fit.

In pursuance of this plan the said Byron, Amasa, and William Sprague induced and persuaded the said Fanny Sprague, the administratrix of Amasa Sprague, deceased, to remain wholly passive, and they also induced and persuaded the said Mary Sprague, the widow and administratrix of William Sprague, the elder, to be and continue entirely passive as to any right or interest which she had in any representative capacity, and to leave the whole property and assets, and the management and control thereof and of the business, entirely in their hands and at their will. The said Mary
7 Sprague, being wholly unacquainted with matters of business, did and omitted to do such things as they desired her, in her capacity as administratrix and guardian, to do or not to do. She signed such papers as they requested her to sign without examination, and in implicit reliance upon the integrity as well as the superior business capacity and skill of the said Byron, Amasa, and William, and their entire good faith in all respects.

Sixth. At the time of the death of the said William Sprague, the elder, the business in which he, as survivor of Amasa, as aforesaid, in conjunction with his son and said nephews, was engaged, in the names of A. & W. Sprague, was, as to a small part of the same, transacted in the name of the "Quidnick Company," there being at the time no corporation of that designation, but the name being assumed to distinguish a part of the business in which some persons were interested who had no interest in the general business of A. & W. Sprague.

Seventh. In pursuance of the scheme before mentioned by which the said Byron, Amasa, and William Sprague sought to retain possession of said property and assets, and to facilitate them in its management and control, they procured an act to be passed by the General Assemby of the State of Rhode Island, in May, 1862, authorizing them, their successors and assigns, to form a corporation under the name of the "A. & W. Sprague Manufacturing Company," and at the same time they procured to be passed by the General Assembly of the State of Rhode Island another act, authorizing them (in conjunction with one Thomas A. Whitman), their successors and assigns, to form a corporation under the name of the "Quidnick Company," and under these several acts, but not until 1865, they proceeded to organize the corporations now known as the "A. & W. Sprague Manufacturing Company" and the "Quidnick Company."

8 Eighth. The said Byron, Amasa, and William Sprague, as a part of their general plan and scheme as hereinbefore described, at all times until the organization of the corporations afore-

said, treated the mass of property and assets in their possession and under their control as property in respect to which the heirs of Amasa and William Sprague, had or were entitled to rights and interests as such heirs. William Sprague, the elder, had, prior to his death, purchased or acquired all the interest of Mary Anna, one of the daughters of Amasa Sprague, the elder, in her father's estate, and, after his death, Amasa and William purchased the interest of Almira, their sister, another daughter of Amasa Sprague, the elder, in her father's estate, by a direct transaction with her, and with the copartnership assets in their hands as survivors. The said Amasa and William also, in the same year, 1862, by a like transaction, and by a similar use of the copartnership assets and funds, extinguished the interest of Byron Sprague in his father's estate, and his interest as a copartner with them except as to the Quidnick property. Both these interests of Almira and Byron, purchased as aforesaid by William and Amasa, and paid for by them out of the property which they held as surviving partners of William Sprague, the elder, were so purchased by them for and applied by them to their own use and benefit, so that afterwards, in the issuing of stock in the said "A. & W. Sprague Manufacturing Company," the shares of stock, which but for said purchase of the interests of said Byron and Almira would have been issued to them, were issued in equal portions to the said Amasa and William.

Your orator further shows that the aforesaid purchase by Amasa and William Sprague of the interest of said Byron was made without the knowledge of said Mary Sprague, but that she was informed of the same within a few days after it was completed, and
9 thereupon, with full knowledge of the fact that by means thereof over $600,000 in cash, or cash assets, had been withdrawn from the assets in the possession of Amasa and William Sprague, as survivors, etc., and paid over to her son, Byron Sprague, she acquiesced in said transaction, and did nothing to enforce or protect the rights of the said infant children in view of said transaction.

Ninth. From the time of the death of William Sprague, the elder, in 1856, to the time of the purchase by William and Amasa Sprague of the interest of said Byron Sprague, as aforesaid, in 1862, the business of the said firm had been carried on with the assets of the old firm, with the accumulations and additions thereto, and under the firm name of A. & W. Sprague.

Tenth. Your orator avers that the said children of Susan S. Hoyt, deceased, as descendants and next of kin of William Sprague, deceased, were entitled to their several distributive shares, amounting, in the aggregate, to one-third of such sum as should, on a due and proper accounting between the said A. & W. Sprague and the said administratrix of said William Sprague, the elder, have been found to be due and payable as his (the said William Sprague, the elder's) share of the copartnership property and assets, and they were entitled to one-half the interest of the said William, the elder, in the said real estate of the firm subject to the widow's dower therein.

Eleventh. The said Amasa and William Sprague being, after the

extinguishment of said Byron's interest in said assets, in a position where, in conjunction with their mother, Fanny Sprague, they could control the business in case it should be turned over to corporations, thereupon, in further pursuance of the aforesaid scheme to prevent the withdrawal of any of the property from their possession, or any liability to account as required by law for any interest therein to the legal representatives of Amasa and William Sprague, de-
10 ceased, in the early part of the year 1863, caused to be prepared and presented to Mary Sprague, for her signature as guardian, a petition to the General Assembly of the State of Rhode Island, in which they procured the husband of Susan S. Hoyt to be united with her, setting forth that the minor children of Susan S. Hoyt were interested as heirs-at-law of their mother in all the estate and property, real, personal, and mixed, held, owned, and managed by the firm of A. & W. Sprague, and praying for authority to convey such interests to any corporations which might be organized as therein stated. A copy of said petition is hereunto annexed, marked "A," which your orator prays may be taken as part of this his bill. The said Mary Sprague, assuming to be and to act as guardian of the property of said children, put her name to said petition, and thereupon the said Amasa and William, the latter being Governor of the State of Rhode Island, caused the same to be presented to the General Assembly of the State of Rhode Island, whereupon the said General Assembly, passed in January, 1863, a resolution entitled "Resolution authorizing Mary Sprague, of Warwick, guardian, to make conveyance of the interest of minors in and to the property of the firm of A. & W. Sprague," a copy of which resolution is hereto annexed, marked "B," and which your orator prays may be taken as a part of this his bill.

Your orator avers, upon information and belief, that the said petition marked "A," which was the sole basis and ground of said resolution marked "B" was untrue in fact, that it did not state or set forth the real relation of the minors to the property referred to therein, but it was falsely made to appear by said petition that said minor children had a title in the property held by A. & W. Sprague which it was advisable and expedient to convey to the corporations referred to therein.

Your orator avers that the said resolution marked "B" is
11 and was wholly inoperative and of no effect as respects said minor children, and that nothing done, or attempted to be done, under or in pursuance thereof is of any validity or effect whatsoever, and that said resolution was and is repugnant to the constitution of the State of Rhode Island, and also to the Constitution of the United States, and was and is wholly void and of no effect. And your orator shows that it was contrived and intended by said Amasa and William Sprague, by means of said petition and resolution, so to dispose of the said property and assets as to vest an apparently valid title thereto in the corporations which they were about to organize, without any legal accounting by said Amasa and William Sprague to said administratrix in respect of her intestate in said property and assets, and without any proceeding

whereby the value of the share of the minor children of said Susan S. Hoyt in said interest could be legally ascertained, and in violation of the obligation of the copartnership contract between said William Sprague, the elder, and said Amasa, William, and Byron Sprague. Your orator further shows that said resolution of the General Assembly, marked "B," was otherwise wholly inoperative and ineffectual to vary or affect the legal rights or relations of said minor children mentioned therein, for the reason that if the said minor children had any right, title, or interest as heirs-at-law of their mother, Susan S. Hoyt, deceased, in or to any of the property mentioned in said resolution, which it was advisable and expedient to convey, the said resolution did not attempt to and was not intended to create or confer any greater or other right or authority than to permit the conveyance of such right, title, and interest to the corporations therein referred to on the condition and subject to the terms and provisions contained in the said resolution, and in the proviso in said resolution contained; and your orator avers that said terms and conditions were never complied with or per-
12 formed.

Twelfth. Your orator further shows that after procuring the said resolution, marked "B," to be passed by the General Assembly of Rhode Island, the said Amasa and William Sprague having matured their plans for placing the entire property and assets in their hands, in the name of the corporations authorized by the Legislature of Rhode Island to be formed by them, and for the purpose of arranging as they saw fit in reference to the division of interest in the property without any legal accounting, in or about the month of April, 1865, caused a certain agreement in writing, a copy of which is hereto annexed, marked "C," and which your orator prays may be taken as a part of this, his bill, to be prepared by the attorneys-at-law, in Providence, of the said Amasa, Byron, and William Sprague, and by them presented to the said Mary to sign in her capacity as administratrix, as well as guardian, and also individually, and, as your orator is informed and believes, without in fact being aware of the contents or real purpose of the said agreement, she signed the same.

Your orator further shows and charges that the said agreement marked "C" and the provisions and stipulations thereof were contrived and matured for the purpose, and with the intent of carrying out the aforesaid scheme of said Amasa and William Sprague, of keeping the possession and control of all the said property and assets, and of effectually and completely preventing any legal accounting or liability to account on their part to the legal representatives of the said Amasa and of said William Sprague, deceased, and of placing the title of said property and assets in the names of corporations, so as apparently to remove it from their possession, while they should, in fact, retain the control and management of the same, and with the further and fraudulent design of securing and appropriating to themselves an interest in the said prop-
13 erty and assets vastly greater in value than they were entitled to, and correspondingly reducing the value of the distributive shares to which the children of Susan S. Hoyt would be

entitled as heirs and next of kin of William Sprague, deceased. Your orator shows and charges that the said Amasa and William Sprague had during all the time from the death of said William Sprague, in 1856, to the year 1865, in which they organized said corporations, used and misapplied vast sums of money derived from the said property and assets and from the business carried on by means thereof for their own personal and private expenses and operations, and had advanced and paid out of the same to the said Fanny and Mary Sprague very large sums for their personal use; that the said Amasa and William, well knowing that upon any legal accounting with the personal representatives of said Amasa and William Sprague, deceased, they would be liable to account for all said sums of money, as well as for the commissions charged and received by them respectively, they resorted to the plan and scheme of having a settlement among themselves, so as ostensibly to settle and adjust their respective rights and interests in and in respect to said property and assets, and to avoid and get rid of the legal accounting, which they were by law bound to have made, and which, in the discharge of her duty, the said Mary Sprague, as guardian and administratrix, should have required and compelled.

Thirteenth. Your orator further shows that by reason of the aforesaid depletion of said property and assets by the use and misapplication of the moneys and profits thereof, as hereinbefore alleged, the said property and assets and the moneys in the said business were greatly diminished in value and amount, so that even if the attempted appraisal and division provided to be made in and by said agreement, marked "C," had been fair and just, the property which was the subject of such division was not all of the
14 property in respect to which the said Amasa and William Sprague were liable to account as surviving partners of A. & W. Sprague to the personal representatives of said Amasa and William Sprague deceased, and that upon a true and just accounting they would have been required to account for more than two million dollars of property and assets which were not brought into the division under said agreement, and which were wrongfully withheld therefrom by said Amasa and William Sprague.

Your orator further shows upon his information and belief that B. F. Thurston and John A. Gardiner, named as referees in said agreement, were in confidential relations with and closely allied to the said William, Byron, and Amasa Sprague, and were nominated by them in their own interest and with the fradulent and unlawful design hereinbefore set forth.

The said agreement, marked "C," was so drawn and the provisions thereof so contrived that the same was intended and designed to stand in lieu of and be a substitute for any accounting and settlement which by law could have been claimed and had between all the parties named in said agreement, so that the same and the appraisal to be had, as therein provided, should operate as a complete settlement of all accounts between Byron, Amasa, and William Sprague, as survivors of William Sprague, the elder, deceased, and Fanny Sprague and Mary Sprague, the several legal representatives

of Amasa and William Sprague, the elder, deceased, and also as a further settlement of all claims and rights which the minor children of Susan S. Hoyt, deceased, could have as against said adminstratrix of William Sprague, the elder, deceased, in respect to the interest of her intestate in the property and assets in the hands of said Byron, Amasa, and William Sprague as such survivors, and your orator avers that he is advised and believes the said attempted agreement and appraisal were acts which it was incompetent and illegal
15 for said Mary Sprague, as administratrix and guardian, to perform, and that the rights of your orator were not and are not in any manner affected or concluded thereby.

The said agreement, marked "C," shows upon its face that said corporations were to include and represent no property or interests other than such as were included in the business of A. & W. Sprague, and no stockholders other than the parties described in said agreement as interested therein.

Fourteenth. Your orator further shows that afterwards, in the month of July, 1865, the said referees made their report in reference to the property and assets held and managed by the firm of A. & W. Sprague, exclusive of the Quidnick property, and the parties in interest, through said referees, made an agreement, a copy of which said report and agreement is hereto annexed and marked Exhibit "D," and which your orator prays may be taken as part of this his bill; that the said report was made up on the basis of and substantially according to the entries and accounts appearing on the books of said A. & W. Sprague, which books, as your orator is informed and believes, did not truly represent the condition of the affairs or the respective rights and interests of the parties; that, as your orator is informed and believes and charges, the said report, marked "D," was untrue in fact in many essential particulars, and unfair, and that it did not state or represent, or attempt to represent, the value of the interest of William Sprague, the elder, deceased, in the said property and assets, in reference to which alone the rights of the minor children of the said Susan S. Hoyt could legally be ascertained and determined, but undertook and assumed arbitrarily to fix and state certain sums as representing supposed interests of Mary Sprague as administratrix of William Sprague, the elder, deceased, and certain other sums as representing interests of Mary Sprague as guardian of said minor children, all of which was illegal and of no effect as to your orator.

16 Your orator further shows that no separate account was ever kept by said A. & W. Sprague, nor were any entries made in their books of or in respect of the share or interest of the said infant children in or in respect to the assets in the hands of said surviving partners of William Sprague, deceased, nor were any moneys ever credited to them as or for their share of profits or receipts of said business, nor was any attempt ever made to ascertain or credit them, or any person representing them, with any share of profits or property other than by the illegal and fraudulent appraisal and agreement last aforesaid.

Fifteenth. Your orator further shows that the said referees, on or about the 1st day of July, 1865, made another report, a copy of which is also annexed hereto and marked Exhibit "E," and which he prays may be taken as a part of this his bill relating to the so-called "Quidnick Company" property. Your orator shows that said last-mentioned report was a part of the same general scheme hereinbefore alleged for avoiding a legal accounting, and was unauthorized and illegal, but in respect to the values reported by said referees in respect to the said "Quidnick Company" property, other parties being interested besides those who were interested in the general property held and managed by A. & W. Sprague, and the property embracing comparatively few items, the appraisal more nearly represented the actual values and was substantially correct, and as to this portion of the property your orator asks no relief.

Sixteenth. Your orator further avers that if the said report marked "D" had been just and fair it would have disclosed and shown the cash value at the close of the business on the 31st day of March, 1865, of the whole property (exclusive of the Quidnick Company property) then held and managed by the firm of A. & W. Sprague, and would have shown the value at that time of the interest in said
17 property to which Mary Sprague, as administratrix of William Sprague, deceased, was entitled, and thereby the distributive shares to which the said minor children of Susan S. Hoyt, as next of kin of said William Sprague, deceased, were severally and respectively entitled to demand of said administratrix and the value of the real estate to which said minor children were entitled as heirs-at-law of their grandfather, William Sprague.

Seventeenth. But although the said Amasa and William Sprague well knew all the facts and circumstances hereinbefore averred, and that said report did not truly state the full value of the interests in respect to which the rights of said minor children applied, as hereinbefore stated, they did, in further pursuance of their general plan and scheme, in or about the month of July, 1865, induce the said Mary Sprague, as guardian as aforesaid, to sign the petition, a copy of which is hereto annexed, marked "F," and which your orator prays may be taken as part of this his bill, which your orator alleges, upon information and belief, was signed by her without knowledge of its character or purpose. With said petition in their possession the attorney or attorneys of the said Amasa and William applied at a term of the court of probate for the town of Warwick, held especially for the purpose of presenting said petition, and which was not a regularly adjourned term of said court, and at which no business was done except the granting of an order, a copy of which is hereto annexed, marked "G," and which your orator prays may be taken as part of this his bill; which said order was granted without any evidence and without any examination into the truth of the facts alleged in the said unverified petition, or any hearing or judicial determination of or passing upon the said facts. A copy of the notice upon which said application was made and a copy of the bond referred to in said order are hereto annexed, marked respectively "H" and

18 "I," to which your orator also craves leave to refer as a part of this his bill.

Eighteenth. Your orator shows and charges that all said proceedings next hereinbefore mentioned were had and taken for the purpose of attempting to avail of and execute the authority given by the aforesaid resolution of the General Assembly, marked "B," but that the same did not constitute a valid, legal, or effectual compliance with the terms and provisions of said resolution, and that all said proceedings were parts of the general scheme, hereinbefore alleged, of keeping the said property and assets in the control and possession of Amasa and William Sprague, and of avoiding a legal accounting in respect thereof, and were fraudulent and void.

Nineteenth. And your orator avers that the value of the interest of the said minor children in the property mentioned in said resolution never was ascertained or attempted to be ascertained in any manner except by the pretended appraisal made pursuant to the said agreement, marked "C," and which did not ascertain the full value thereof, and which was fraudulent and void.

That the said resolution of the General Assembly, by its terms, required that the said Mary Sprague should make and execute a bond conditioned for the investment of the full value of the interest of said minor children therein named in the property therein mentioned in the stock of the corporations therein referred to, in the names of and for the use and benefit of said minor children. And your orator shows that the bond given and filed by the said Mary Sprague, being Exhibit "I," annexed hereto, was not a compliance with the terms and conditions of said resolution.

Your orator further shows that the said Mary Sprague in other respects failed to comply with the terms and provisions of said resolution of the General Assembly, and never invested the amount

19 of the full value of the interests of said minors as in said resolution specified, or in the manner therein mentioned, and he avers and charges that the said order, marked "G," was void, among other things, for want of jurisdiction in th[illegible]rt over the subject-matter of the order and over the person o[illegible] orator or his property, and that all things done under and by virtue of said order are null and void and not binding on your orator.

Twentieth. Your orator further states that on or about the 9th day of August, 1865, the said Mary Sprague executed the instrument, a copy of which is hereto annexed, marked "K," to which your orator craves leave to refer as a part of this his bill, by which instrument it was attempted to transfer all the right, title, and interest of said Edwin Hoit, Jr., as heir-at-law and next of kin of William Sprague, in and to all the property and assets in the possession or control of said A. & W. Sprague to the said "A. & W. Sprague Manufacturing Company," in violation of law and of his rights. On the same day a similar instrument was executed by said Mary Sprague, in respect to the so-called Quidnick Company property, to the corporation of that name.

Twenty-first. Your orator further shows that on the same day that the said last-mentioned instruments were executed the said A. & W.

Sprague Manufacturing Company was organized, the said William Sprague was elected president, and the said Amasa Sprague was elected treasurer thereof, the only other stockholders being the defendants, Fanny Sprague and Mary Sprague, all of whom had full knowledge of the illegality of the instruments executed by the said Mary, as administratrix and guardian, and all of whom knew that the attempted transfers of property, so far as respects the rights of your orator, had been in violation of law, and that no compensation therefor had been made to her, or to any one on her behalf.

The said Amasa and William Sprague continued to have the
20 same control and management of the property and business as before, and from that time to the date of the execution of the deed of trust hereinafter mentioned, on or about the 1st day of December, 1873, the said Amasa and William had the entire management and control of the property. Your orator further shows, on information and belief, that the only stockholders in said corporation were the said Amasa, William, Fanny, and Mary Sprague, and that no other persons have ever been stockholders therein.

The entire control and possession of the assets of A. & W. Sprague having been obtained by said Amasa and William by the means and devices hereinbefore stated, and still further to prevent said minor children from calling them to account before the courts for their maladministration of the property of which they had gained the apparent control, the said Mary was induced to resign her guardianship to your orator, then an infant.

And your orator shows that in order to such resignation and accounting the said Mary Sprague, as guardian, presented a petition to the said probate court of the town of Warwick, and procured the appointment of appraisers under the statute of the State of Rhode Island providing for an appraisement of the property of minors represented by guardians within three months after their appointment, which statute had been wholly disregarded by the said Mary Sprague, and thereupon the same B. F. Thurston and John A. Gardner, who had acted as referees and appraisers under said agreement "C," were appointed, with one George W. Cory, by warrant, a copy of which is annexed hereto and marked Exhibit "L," as appraisers under said petition, and returned as the value of the property of said minors, by a report, also annexed hereto and marked Exhibit "M," the same amount which had been allotted to them by the said report, marked "D," and thereupon a pretended account was made up and signed by said Mary Sprague, as guardian, and filed on or about the 9th day of July, 1866, a copy of which is annexed hereto and marked Exhibit "N," all of which
21 several exhibits, "L," "M," and "N," your orator prays may be taken as part of this his bill.

Your orator shows that the said pretended account was so contrived and managed as to exhibit to the said probate court the result of the said pretended appraisal, and to procure it to be taken and approved by the probate court, and to be passed accordingly.

Twenty-second. Your orator shows that before the time of filing said inventory, of which a copy marked "N" is hereunto annexed,

the said Mary Sprague had never filed or exhibited any inventory or account showing any property in her hands as to which she was entitled as guardian of the property of your orator; that the said pretended account, Exhibit "N," was a mere repetition of the result of said appraisal, and did not place any money or property in the hands of said Mary Sprague as guardian, and that no part of the property of your orator, so far as it consisted of an interest in the share of William Sprague, deceased, in the property and assets of said A. W. Sprague, ever came into the possession of said Mary Sprague as guardian or otherwise. Nevertheless your orator shows that said pretended account was fraudulently made up and procured to be passed, and on the 1st day of September, 1866, without any knowledge on the part of your orator, an order was entered in said probate court accepting the resignation of said Mary Sprague at a regular term of the probate court of the town of Warwick, and on the same day letters of guardianship of the property of your orator were issued by the said probate court to the said William Sprague, who thereafter filed an inventory stating the same pretended share or interest as fixed by said appraisal, pursuant to Exhibit "C," as the property of your orator in his hands as guardian. Your orator further shows that since the issuing of said letters of guardianship to said William Sprague he has failed to give any information to your orator concerning the matters and things hereinbefore
22 alleged, and since the filing of said inventory as guardian has rendered no account to the court as guardian of the property of your orator, nor has he at any time rendered a just and true account of his doings in his capacity as guardian as aforesaid. And your orator further shows that the said William still continues to assume to act as such guardian. Your orator further avers that the said probate court had no power to appoint either the said Mary Sprague or the said William Sprague guardian of the property of your orator, and that each of the orders appointing the said Mary and the said William such guardian was, and is, illegal and void and beyond the jurisdiction of the said probate court.

Twenty-third. Your orator further shows that during all the times hereinbefore mentioned the proper probate court, to wit, the probate court of the town of Warwick, in the State of Rhode Island, had jurisdiction to enforce an accounting in the manner provided by the laws of Rhode Island in respect to the share or interest in the said property and assets in the hands of said Amasa and William Sprague to which the said Mary Sprague as administratrix of William Sprague, deceased, was entitled, and in respect to the distributive share of your orator in the estate of said William Sprague, deceased, but so it was that the personal interest of the said Mary Sprague, and her interests as such administratrix, and the interests of your orator, which she represented as guardian of his property, were conflicting, and that the personal interest of the said William Sprague and the interest of your orator, of whose property the said William Sprague assumed to be guardian in the year 1866, were conflicting, and that the jurisdiction and power of said probate court were not invoked by said Mary Sprague or William Sprague,

except in aid of the general scheme and plan for keeping all said property and assets in the manufacturing business carried on by said Amasa and William Sprague, and in order to carry out such scheme and plans more effectually.

23 Twenty-fourth. Your orator further shows that as a part of said general scheme and plan of said Amasa and William Sprague they formed a copartnership in the State of New York, in the year 1859, with the said Edwin Hoyt, the father of your orator, under the firm name of Hoyt, Sprague & Co., as a commission house for the purpose of receiving the goods manufactured by said A. & W. Sprague and of making advances thereon and selling the same on commission; that the commissions on such consignments amounted to very large sums, in which the said Amasa and William Sprague were interested, and that by the use of the credit of said firm of Hoyt, Sprague & Co. the facilities of said Amasa and William Sprague in the management of said property and assets and in their manufacturing business were greatly increased.

And your orator further shows that the said Edwin Hoyt, being a copartner in business with said Amasa and William Sprague in the said firm of Hoyt, Sprague & Company, had close business as well as personal relations with said Sprague, and was so far identified with them in interest that he did not oppose them in their plans and schemes for carrying on the manufacturing business in the State of Rhode Island with the property and assets in their control, and was induced by them to unite in the signing and execution of such papers as they required in reference to the interests of either of his children.

Twenty-fifth. Your orator further shows that after the financial disasters and "panic," so called, in September, 1873, and the embarrassments of the said A. & W. Sprague Manufacturing Company, hereinafter mentioned, the firm of Hoyt, Sprague & Co. above mentioned suspended payment, and became and were unable to pay their debts. and that the said Edwin Hoyt was taken ill, and was for a long time confined to his house, and finally, on the 15th day of May, 1874, died at the city of New York.

Twenty-sixth. Your orator further shows that in November, 1873, the A. & W. Sprague Manufacturing Company became em-

24 barrassed, and shortly thereafter said company executed a trust deed of all its property to the defendant, Zechariah Chafee, in which trust deed the said Amasa and William Sprague, individually and as copartners under the firm name of A. & W. Sprague, and also the said Mary Sprague and Fanny Sprague joined; and that by subsequent instruments executed in April, 1874, the said A. & W. Sprague Manufacturing Company and the said Amasa & William Sprague, as composing the firm of A. & W. Sprague, conveyed and assigned all their property to the said Zechariah Chafee for the benefit of creditors; and he alleges that the said Chafee now has, or pretends to have, all the property so assigned in his possession and control, and to be vested with the title thereof for the benefit of the creditors of the said persons and corporations, but that the said Chafee refuses to recognize your orator's rights in the prem-

ises, and declines to furnish any information by which your orator can ascertain the amount of his claim against the property in the hands of said Chafee as assignee, as aforesaid. Copies of the said deed of trust marked Exhibit "O," and of said assignments, marked Exhibits "P" & "Q," are annexed hereto, and your orator prays they may be taken as part of this his bill; and he alleges that all the said property and assets having been turned over and conveyed to said A. [&] W. Sprague Manufacturing Company, and thereafter to the defendant, Zechariah Chafee, as hereinbefore averred, the said defendants, Mary Sprague and William Sprague, have no property in their possession which can be reached by the said probate court, and that your orator is advised and believes and shows that this honorable court has jurisdiction over all the parties to this bill and over the subject-matter and power to grant the relief sought herein.

Your orator further shows that, as he is advised and believes and therefore avers, the trust existing in favor of your orator in
25 respect to the said property and assets in the hands of the said Amasa and William Sprague, as survivors of said William Sprague, the elder, deceased, followed the said property and assets into the possession of the said A. & W. Sprague Manufacturing Company, and into the hands of said Zechariah Chafee as trustee or assignee, as aforesaid, and that the said property and assets in the possession of said Chafee as such trustee or assignee are subject to the said trust and to the rights and equities of your orator in the same manner as they were while in the possession of said Amasa and William Sprague and of said A. & W. Sprague Manufacturing Company.

Twenty-seventh. And your orator further shows that until after the failure of said company and the said assignment to said Chafee your orator had no information or knowledge respecting the material facts herein alleged, either that the acts of Amasa & William Sprague in retaining the possession of the entire assets and property of A. & W. Sprague in their hands, and dealing with it as they did, were unauthorized, or that there had been no administration of the estate of said William Sprague, deceased; or as to any of the several steps, proceedings, instruments, or acts by which the said Mary Sprague and the said surviving partners of William Sprague, deceased, had converted the interest of your orator in the estate of the said William Sprague, deceased, into the stock of said corporations; that your orator being incapable of managing his own affairs was, as hereinbefore stated, placed in the care of William S. Hoyt and Charles G. Francklyn, and soon after the said William S. Hoyt and Charles G. Francklyn, as the committee of the person and property of your orator, instituted a legal investigation into the conduct and doings of said William Sprague, as guardian of the property of your orator, in the course of which they discovered and ascertained for the first time the material facts hereinbefore averred; that owing to studious concealment on the part of said William Sprague,
26 and misrepresentations of fact by him, and the ignorance in which your orator and his said committee were in respect to the situation of the property and rights of your orator, they were

and each of them was in entire ignorance of and had no suspicion of the material facts hereinbefore set forth.

The said Charles G. Francklyn and William S. Hoyt after the said assignment, and before their said appointment as the committee of the person and property of your orator, having ascertained from the published reports of the committee of creditors of said A. & W. Sprague Manufacturing Company that said William Sprague had used and misapplied moneys held by him as such guardian, and having been thereunto authorized by your orator, called on said William Sprague, as such guardian, to account to them on behalf of your orator, and thereupon said William Sprague, after suit had been brought by your orator, delivered to your orator 123 shares of stock in the Quidnick Company and certain other shares of stock, to which he informed said Francklyn and William S. Hoyt your orator was entitled, and which your orator received in entire ignorance of the facts heretofore set forth relating to the fraudulent acts of the defendants herein.

That said William Sprague, after delivering the said stock as aforesaid, refused to account or do any further act or thing to put your orator in possession of his property, or to give any information in regard thereto; and thereupon, in the course of investigations and examinations which were had and made, your orator for the first time, and in the spring of 1875, discovered and ascertained that no accounting had ever been had in respect to the property and assets which came into the possession and control of said Amasa and William Sprague as surviving partners of said A. & W. Sprague, as hereinbefore set forth, and that the said Mary Sprague had never duly accounted as administratrix of William Sprague, de-
27 ceased, or as guardian of the property of your orator; that said Francklyn and said William S. Hoyt then applied to the said Mary Sprague for information in relation to the said facts, and were informed by her that she had acted throughout under the direction and dictation of the said Amasa and William Sprague and their attorneys, and not according to her own discretion or judgment, and your orator shows that the said Mary Sprague is now advanced in years, and is upwards of seventy years of age, and that it is important and necessary for the rights of your orator that her testimony should be taken and perpetuated in this cause. Your orator shows that on or about the 14th day of August, 1876, the said Francklyn and William S. Hoyt, as the committee of the person and property of your orator, filed their certain bill of complaint in this court against the same and no other persons and corporations as are parties defendant herein, in and by which complaint the same relief was prayed for as is prayed herein; that the defendants herein all appeared in said action, and to the said bill of complaint interposed their demurrer; that the issue of law raised by said demurrer was not tried, as your orator is informed and believes, and your orator, as advised by counsel, and on or about the fourth day of March, 1878, discontinued said action, and now brings this action in place thereof.

Twenty-eighth. That owing to the failure of said Mary Sprague,

as administratrix, to compel an accounting in respect to such interest of William Sprague, deceased, or to ascertain and secure as guardian the value of the said distributive share therein, and owing to the other wrongful and fraudulent acts hereinbefore averred, the entire property and assets in respect to which such accounting should have been had have gone into the hands of the said defendant, Chafee, as trustee or assignee, as aforesaid, the administratrix and guardian conniving and assenting thereto, so that your orator is without remedy unless by the aid of a court of equity; that, as he is
28 is advised and believes, he is entitled to an accounting, to the end that the value of the aforesaid distributive share of your orator, as one of the heirs-at-law and next of kin of said William Sprague, the elder, deceased, at the time when the said property and assets were wrongfully converted and taken into possession by said company, may be ascertained and adjudged by the decree of this court to be a charge upon the said property and assets, to be paid to your orator when so ascertained, with interest thereon, or with the profits thereof, as he may elect.

Twenty-ninth. Your orator further shows that he is apprehensive that unless enjoined and restrained by the order and decree of this honorable court the defendant, Chafee, will use or apply the said property and assets in his hands as trustee or assignee, or the proceeds thereof, without reference to the claims and equities of your orator against the same, and in violation of your orator's rights, and to his great and irreparable loss and injury; that said defendant, Chafee, refuses to recognize the rights of your orator and is hostile to his interests.

In consideration whereof your orator prays relief that your orator's rights may be established by this honorable court according to equity; that the said defendants may answer the premises; that an account of all the property and assets which came into the possession or under the control of the said Amasa and William Sprague, as survivors of William Sprague, deceased, and of the increase thereof, and of the profits of the business carried on by said defendants, Amasa and William Sprague, as well as by them and the said Byron Sprague after the death of said William Sprague, and of the amount due in respect thereof to the administratrix of said William Sprague on the 9th day of August, 1865, and of your orator's share or interest therein, may be had and taken, and the value thereof
29 ascertained and determined, and that your orator's rights and equities in and in respect to said property and assets and profits may be ascertained and enforced; that the trust existing in favor of your orator in or in respect to said property and assets and profits may be established and his share or interest therein ascertained and decreed and delivered or paid to your orator with interest thereon, and that said defendant Chafee, as such assignee and trustee, may be decreed to pay the same out of the said property and assets in his hands, or the proceeds thereof, so that your orator shall receive and be paid his full share thereof in such manner as to this court shall seem meet and according to equity.

Also that said defendants may be required to make discovery of all books of account, deeds, papers, writings, and vouchers relating to the copartnership business of the firm of A. & W. Sprague, and of the surviving partners of said firm, and of the amount of the moneys had and received by said defendants, or either of them, especially the moneys had and received by said Amasa and William and Fanny and Mary Sprague from the time of the death of William Sprague, the elder, and of all matters and things relating to or in any manner appertaining to the rights of your orator in respect to said property and assets, and to account for all sums of money so had and received by them.

That the testimony of said defendant, Mary Sprague, may be taken and perpetuated herein under the order of this court.

That the said defendants, and especially the said defendant Zechariah Chafee, as assignee or trustee under the said trust deed or any deed, may be restrained and enjoined by the decree of this honorable court, and by its order during the pendency of this action, from selling, assigning, transferring, or paying to any person or persons or corporations any of the real or personal property conveyed or assigned to him by the said A. & W. Sprague Manufacturing Company, or by any or either of the defendants, and from doing any act or thing whatsoever to the prejudice of or in conflict with the rights and interest claimed by your orator, as hereinbefore set forth and alleged.

In consideration whereof your orator prays process of subpœna against said Amasa Sprague, William Sprague individually, Fanny Sprague individually and as administratrix of Amasa Sprague, deceased; Mary Sprague individually and as administratrix of William Sprague, deceased; the A. & W. Sprague Manufacturing Company, and Zechariah Chafee, trustee and assignee under the said indentures or deeds of trust and assignments made by said A. & W. Sprague Manufacturing Company, Amasa Sprague and William Sprague, Fanny Sprague, and Mary Sprague, commanding and requiring them to appear and answer this your orator's bill of complaint. To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed, and may, upon their several and corporal oaths and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth as by the note hereunder written they are respectively required to answer, to wit:

1. Whether the said defendant, Mary Sprague, as administratrix of William Sprague, deceased, has ever filed or passed her accounts as such administratrix, and what property, if any, has ever come into her hands as such administratrix.

2. Whether the interest of Byron Sprague in the copartnership property and assets of the firm of A. & W. Sprague was acquired by the defendants, Amasa and William Sprague, by purchase from said Byron, and what sum of money was paid to him therefor.

3. Whether any and what interest of Almira Sprague in
31 or in respect of the copartnership property and assets of said firm of A. & W. Sprague was acquired by the defendants, Amasa and William Sprague, by purchase from said Almira, and what sum of money was paid therefor.

4. Whether the petition, a copy of which is annexed to this bill and marked Exhibit "A," purporting to be signed by the defendant, Mary Sprague, was signed by her.

5. Whether the agreement, a copy of which is annexed to this bill and marked Exhibit "C," was made and executed by the parties therein named.

6. Whether any, and if so what, accounting or appraisal in respect to the value of the interests of Amasa Sprague, deceased, and William Sprague, deceased, respectively, in or in respect to the property and assets of the firm of A. & W. Sprague in the hands of the survivors of William Sprague, or in respect to the amounts due to the personal representatives of the said Amasa and William Sprague, deceased, respectively, was ever had or made at any time, and, if so, when from the death of said William Sprague in 1856 up to the time of the making of the said agreement, Exhibit "C."

7. What was the whole amount of money received by the surviving partners of said firm of A. & W. Sprague, and entered on their books, from the property and assets of said firm and the business carried on by them from the death of William Sprague in 1856 up to the 9th day of August, 1865?

8. What was the whole amount of money expended by the said surviving partners of said firm of A. & W. Sprague in carrying on the said business from the death of said William Spraigue in 1856 to the 9th day of August, 1865, as entered on said books?

9. What sum or sums of money, if any, were charged on the books of said A. & W. Sprague between the death of said William Sprague and the 9th day of August, 1865, for commissions?

32 10. What sum or sums, if any, were drawn out or allowed and credited during the same period above specified for commissions, and what sum for the personal expenses of the defendants herein, respectively, or for the use of either [of] them?

11. What sum or sums of money, if any, were drawn out during the same period for any special investments, adventures, or operations of either of the defendants, including any sum contributed as capital to the firm of Hoyt, Spragues & Co., of New York?

12. Whether the sum of $75,000 specified in said agreement, Exhibit "C," annexed hereto, as agreed to be paid to Mary Sprague, was paid to and received by her in money or stocks.

13. Whether Mary Sprague, as administratrix of William Sprague, deceased, ever received and had in hand any sum of money whatever, and if so what sum, as the proceeds of the share of William Sprague, deceased, in the surplus of the copartnership property and assets in the firm of A. & W. Sprague, of which he was a member at his death in 1856, after payment of the copartnership debts.

14. Whether any and what dividend was ever declared, and when,

in the lifetime of William Sprague, the elder, of profits of the business of A. & W. Sprague.

15. Whether the bond, a copy of which is annexed to this bill and marked Exhibit "I," was executed by the obligors therein named, and whether any other bond was ever executed as a bond in compliance with the provisions of the resolution of the General Assembly of Rhode Island passed January, 1863.

16. Whether said Mary Sprague, as guardian or otherwise, had ever had in her separate possession or under her own control any part of the property mentioned and described in the conveyance, Exhibit "K," or any part or parcel thereof.

17. Whether the said Mary Sprague ever had in hand, in her separate possession and under her own control, any of the
33 property specified in the so-called "inventory" annexed hereto, marked Exhibit "M," or her so-called "account" annexed hereto and marked Exhibit "N."

18. Whether the defendant William Sprague, as guardian of your orator, has ever filed any account of his acts and doings as such guardian in any court of probate in the State of Rhoe Island.

19. Whether the several deeds of trust purporting to have been executed by the A. & W. Sprague Manufacturing Company and others to Zechariah Chafee, and referred to in this bill, were so executed.

20. Whether the said defendant Zechariah Chafee now holds the property described in said trust deed, or any, and what part of the same.

And on the final hearing may it please your honor to grant to your orator such other and further relief as may be equitable in the premises.

And your orator will ever pray.

EDWIN HOYT,
By W. S. HOYT, and
CHAS. G. FRANCKLYN.
BUTLER, STILLMAN & HUBBARD,
Complainant's Solicitors, 111 *Broadway, New York.*
WM. ALLEN BUTLER, *Of Counsel.*

34 UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

In the city of New York, in said district, on the 6th day of March, 1878, before me, a commissioner duly appointed by the circuit court of the United States *of* the southern district of New York, in the second circuit, to take testimony and depositions, personally appeared William S. Hoyt and Charles G. Francklyn, subscribers to the foregoing bill, and made oath that the statements made in said bill as of their own knowledge are true, and those made therein as of their information and belief they verily believe to be true.

W. S. HOYT.
CHAS. G. FRANCKLYN.
[SEAL.] JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

NOTE.—The defendants Amasa and William Sprague, respectively, are required to answer the interrogatories numbered respectively 2, 3, 5, 6, 7, 8, 9, 10, 11, 14, 15, 18, 19.

The defendant Mary Sprague is required to answer the interrogatories numbered respectively 1, 4, 12, 13, 16, 17.

The defendant Zechariah Chafee is required to answer the interrogatories numbered respectively 19, 20.

35 EXHIBIT "A."

To the honorable the General Assembly, at its January session, A. D. 1863:

The petition of Mary Sprague, of Warwick, in the county of Kent, widow of William Sprague, late of said Warwick, deceased, and of Edwin Hoyt, of the city, county, and State of New York, respectfully represents that by the town council of the town of Warwick the said Mary was duly appointed guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, children of the petitioner, the said Edwin, and of Susan Hoyt, deceased, who was the daughter of the petitioner, the said Mary.

That said children, who are all minors and heirs-at-law of their said mother, are interested in all the estate and property, real, personal, and mixed, now held, owned, and managed by the firm of A. & W. Sprague, of Providence.

That the petitioners deem it advisable and expedient that the interests of said minors should be vested in such corporation or corporations as shall be organized under and in accordance with the charters heretofore granted by your honorable body for that purpose, and that in order to so vest the same it will be necessary that the title of said minors shall be conveyed to such corporation or corporations as shall be so formed.

Wherefore your petitioners pray that whenever any corporation or corporations shall be organized under either or any of the charters aforesaid, and conveyance or conveyances shall become necessary to vest the title of the parties interested in any of said property in any such corporation or corporations, upon the execution by said Mary and Edwin as principals of every such bond or bonds in such penal sum or sums and with such sureties as the court of
36 probate of Warwick shall require, conditioned for the investment of the amount of the full value of the interests hereinafter prayed to be conveyed in the capital stock of any such corporation or corporations to which such interests shall be conveyed as hereinafter prayed, in the names and for the use and benefit of said minors, and on the delivery of such bond or bonds to said court of probate, the said Mary in her capacity as guardian may make, execute, seal, acknowledge, stamp, and deliver all and any such conveyance and conveyances to any such corporation or corporations as shall be necessary to vest the title of the said minors in and to said property in any such corporation or corporations; and that any such conveyance or conveyances so executed, acknowledged, stamped, and delivered shall be deemed and held as valid

and effectual in law and equity to vest the title of said minors in any such corporation or corporations as though the same were executed, acknowledged, and delivered by said minors after attaining their majority, and as in duty bound will ever pray.

MARY SPRAGUE, *Guardian.*
EDWIN HOYT.

37 EXHIBIT "B."

Resolution authorizing Mary Sprague, of Warwick, guardian, to make conveyance of the interest of minors in and to the property of the firm of A. & W. Sprague.

Upon the petition of Mary Sprague, of Warwick, widow of William Sprague, late of Warwick, deceased, and of Edwin Hoyt, of the city and State of New York, representing that the said Mary is guardian of the estate, and the said Edwin, father of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children and heirs-at-law of Susan Hoyt, deceased, and praying, for certain reasons, that the said Mary may be authorized and empowered to make conveyance in her said capacity of all the right, title, and interest of said minor children, as heirs-at-law of their said mother, in and to all the estate and property, real, personal, and mixed, now held, owned, and managed by the firm of A. & W. Sprague, of Providence.

Voted and resolved, That the prayer of said petition be, and the same is hereby, granted; and the said Mary Sprague, in her capacity as guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and Wm. S. Hoyt, is hereby authorized and fully empowered, whenever any corporation or corporations shall be organized under either or any of the charters heretofore granted by the General Assembly of this State, and conveyance or conveyances shall become necessary to vest the title of the parties interested in any of said property so held, owned, or managed by the firm of A. & W. Sprague in any such corporation or corporations, to make, execute, seal, acknowledge, stamp, and deliver all and any such conveyance and conveyances to any such corporation or corporations as shall be
38 necessary to vest the right, title, and interest of the said minors in and to said property, or any portion thereof, in any such corporation or corporations; and that any such conveyance or conveyances so executed, acknowledged, stamped, and delivered shall be deemed and held as valid and effectual in law and in equity to vest the title of said minors in any such corporation or corporations as though the same were executed, acknowledged, stamped and delivered by said minors after attaining their majority:

Provided, That before the delivery of any such conveyance or conveyances the said Mary shall have executed and delivered to the court of probate of Warwick every such bond or bonds with herself in her said capacity and said Edwin Hoyt as principals, in such penal sum or sums and with such sureties as said probate court shall require conditioned for the investment of the amount of the

full value of the interests of said minors which she shall then be about to convey in the capital stock of any such corporation or corporations to which the same shall be conveyed in the names and for the use and benefit of said minors.

Endorsements.

228. No. 2. Petition of Mary Sprague, guardian, *et al.*, to make conveyance of the interest of minors in and to the property of A. & W. Sprague. H. of R., March 3, 1863. Referred to Com. on Ind. W. J. M., cl'k.

Recommended to grant prayer of petitioner and passage of accompanying resolution. R. W. Greene, for the committee.

H. of R., March 4th, 1863. Granted, and accompanying resolution read and passed. W. J. M., cl'k.

Senate, March 6th, 1863. Read and referred to Com. on Jud. D. O. G., cl'k.

Rec'm'd to concur. E. B. Potter, for com.

Senate, March 9th, 1863. Read, and accompanying resolutions read and concurred. D. O. G., cl'k.

39 EXHIBIT "C."

This agreemeent, made and entered into this first day of April, A. D. one thousand eight hundred and sixty-five, by and between Fanny Sprague, of Cranston, in the county of Providence and State of Rhode Island, in her individual capacity and in her capacity of administratrix upon the estate of the late Amasa Sprague, deceased; Mary Sprague, of Warwick, in the county of Kent, in her individual capacity and in her capacity of administratrix upon the estate of the late William Sprague, deceased, and also in her capacity of guardian of the estates of Edwin Hoyt, Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan Hoyt, deceased; William Sprague and Kate C. Sprague, his wife, both of South Kingstown, in the county of Washington; Amasa Sprague, of said Cranston; Edwin Hoyt, of the city, county, and State of New York; Byron Sprague and Harriet Sprague, his wife, both of the city and county of Providence; Thomas A. Whitman and his wife, Augusta Whitman, both of Coventry, in said county of Kent, the said Thomas A. in his individual capacity and in his capacity of executor of the last will and testament of Emanual Rice, late of said Warwick, deceased, and Almira R. Rice, of said Warwick, witnesseth:

That whereas all the parties named above who have interests in the property now held and managed by the firm of A. & W. Sprague (exclusive of the Quidnick Company property) are desirous of ascertaining the distinct value of such property in which all such parties have an interest, the value of the interest of each in every capacity and the amount of the indebtedness, if any, of each in every capacity to said firm as well as the amount of indebtedness, if any, from the firm to each in every capacity, for the purpose of organizing a corporation upon such property as capital, as hereinafter pro-
40 vided; and whereas the parties named above who have interests in the property of the Quidnick Company, now held and

managed by said firm, are desirous of ascertaining the distinct value of such property in which all such parties have an interest, the value of the interest of each in every capacity, and the amount of the indebtness, if any, of each in every capacity, to said firm of A. & W. Sprague, as well as the amount of the indebtedness, if any, from said Quidnick Company to each such party in every capacity, for the purpose of organizing a corporation upon the property of said Quidnick Company as capital, as hereinafter provided:

Now, therefore, for the purpose of carrying into effect the above-declared objects and of placing the interests and claims of the parties in a proper position to admit of the organization of the corporations as aforesaid and to declare such plans for and modes of such organizations as agreed upon by the parties as will allow Mary Sprague and Byron Sprague each to receive about $75,000, and the indebtedness of the representatives of said Rice to said firm to be canceled at the time of such organizations, the parties above named, in their several capacities (the said Kate C. Sprague and Harriet Sprague for the purpose of pledging themselves to join by release of dower in all conveyances hereinafter provided for only), do mutually covenant and agree, each in every capacity, to and with every other in every capacity, in manner following, viz:

That Benjamin F. Thurston, of Providence, counsel for some of the parties, and John A. Gardner, of said Providence, counsel for other parties, be, and they are hereby, chosen and appointed referees to decide, determine, and make their awards, and report upon the following matters, viz:

1st. The cash value at the close of business on the 31st day of March, 1865, of the whole property, assets, rights, and credits, of every name and nature (exclusive of the Quidnick Company property), then held and managed by the firm of A. & W. Sprague, in which the representatives of the late Amasa and William Sprague, deceased, who had not prior to said time disposed of their portions therein, then had an interest.

2d. The value at said time of the respective interests of the respective parties aforesaid theren, in their several and respective capacities, after deducting the amount of all the then existing liabilities of the firm, which the property specified in the first subject of reference above should contribute to the payment of, from the cash value of the said property, assets, &c., ascertained as above, and also the amount of such liabilities.

3d. The amount at said time due from the firm, if any, to each such party, in each and every capacity, and the amount due, if any, from each such party, in each and every capacity, to the firm, with the amount, if any, due Mary Sprague, in her capacity as administratrix, from the firm, on account of any dividend declared in the lifetime of her husband, awarded in a separate as well as the general item of her dues as administratrix from the firm.

4th. The cash value at said time of the whole property, assets, rights, and credits, of every name and nature, of the Quidnick Company then held and managed by the firm of A. & W. Sprague.

5th. The value at said time of the respective interests of the re-

spective parties then interested in said Quidnick Company property, in their several and respective capacities, after deducting the amount of all then existing liabilities of the company from the value of the said property, assets, &c., ascertained as above.

6th. The amount at said time due from said Quidnick Company, if any, to each party interested in said company in each and every capacity, and the amount, if any, due from each such party in each and every capacity to said firm of A. & W. Sprague.

42 7th. The market value per share (excluding interest thereon) at said time of all the bank and insurance stocks, and the market value (excluding interest thereon) at said time of each Hartford, Providence & Fishkill railroad bond, held and managed by said firm, and included in said first subject of reference above, as well as what *pro rata* number of said bonds and what *pro rata* number of shares of each such stock would be required at such appraised market values to make the total appraised value of the bonds and shares represented by the sum of the said numbers equal, as nearly as may be, to the sum of (75,000) seventy-five thousand dollars.

That said referees shall accept their appointment by endorsing their acceptance on this agreement; that they shall have power, in the event of their disagreement upon any question of law or fact arising in the course of the discharge of their duties under this agreement, to select an umpire for the decision of such question, and may select different umpires for the decision of different questions upon which they may disagree, and the decision of the umpire selected for the decision of such specific question and of one of the referees shall be final, conclusive, and binding upon all parties interested upon such question; and said referees shall act upon each such decision in the same manner as though the decision had been their own, without making any umpire party to their report, or having it appear by their report that any umpire has been choosen; that in the discharge of their duties full and complete access shall be allowed them to the books, accounts, and papers of all parties, and free privilege shall be given to them to inspect any of the classes of property necessary to be appraised; that each of the parties hereto shall, upon application, truly answer touching all matters necessary for them to know in the discharge of their duties; that they may obtain such information touching the matters referred from third parties as they may deem of assistance to them; that they shall not be required to give any notices to any of the parties of

43 any of their proceedings unless they so choose; that on or before the first day of July, 1865, they shall make two reports, one embracing their award on all matters particularly referred as above by the parties aforesaid having interest on said 31st day of March in the property of the firm of A. & W. Sprague, and one embracing their award on all matters particularly referred as above by the parties having interest at said time in the property of the Quidnick Company, and deliver each of said reports to the firm of A. & W. Sprague, and a certified copy of each to any party requesting one who has any interest under the terms of this reference in the report so requested; and that each of the awards and reports by said

referees made shall be absolutely final, conclusive, and binding in every particular, in fact, in law, and in equity, forever hereafter upon all the parties whom each such award and report shall affect.

And it is further agreed that as soon as practicable, and within twenty days after the reports of the said referees shall have been made as above provided, a corporation shall be organized by the parties interested in the matter of the first subject of reference above, under the charter granted to the A. & W. Sprague Manufacturing Company at the May session of the General Assembly, A. D. 1862, and full and complete conveyance or conveyances and transfer or transfers shall be made by the said parties in interest, in their several capacities, to the said corporation of all their interests in the property, assets, &c., specified in said first subject of reference, as the same shall be increased or diminished at the date of conveyance by the accounts hereinafter provided to be transferred to the books of said corporation, sufficient to vest fully and entirely the title of all such property, assets, &c., so increased or diminished at the date of the conveyance in the said corporation.

And it is further agreed that after the formation and complete organization of the said corporation and the corporation
44 hereinafter provided to be formed and organized, and on or before the day when the above-mentioned conveyance or conveyances, transfer or transfers, and the conveyance or conveyances, transfer or transfers, hereinafter provided for are made, and before the same are delivered to said corporations respectively, said firm of A. & W. Sprague shall deliver the *pro rata* number of bonds of the Hartford, Providence and Fishkill Railroad Company, and transfer the *pro rata* number of shares of stock of each bank and each insurance company in which said firm held stock at the close of business on the 31st day of March, 1865, to Mary Sprague, which the referees, under the seventh subject of reference above provided, shall award, and shall at the same time deliver the same number of such bonds and transfer the same number of such shares of stock to Byron Sprague.

And it is further agreed that Amasa Sprague and William Sprague shall each pay to the firm of A. & W. Sprague one-half of the appraised value as aforesaid of said bonds and shares of stock that shall be delivered and transferred to the said Mary and Byron, or shall give their notes to the firm therefor before the delivery of the conveyances above and hereinafter mentioned, as they may elect.

And it is further agreed that said A. & W. Sprague Manufacturing Company shall assume the amount of liabilities of the said firm of A. & W. Sprague at the date of the delivery of the conveyance or conveyances as aforesaid to the same that shall be reported by the referees under the second subject of reference above which shall then be undischarged, together with such additional liabilities as shall appear, by the accounts herein provided to be transferred to the books of said corporation, to exist.

And it is further agreed that, as soon as practicable after the organization of the said A. & W. Sprague Manufacturing Cor-
45 poration, and the delivery of the conveyance or conveyances

hereinafter provided for, each of the above-named parties interested in the matter of the first subject of reference above, shall, in their proper capacities, receive certificates for such number of shares of the capital stock of said A. & W. Sprague Manufacturing Company as the ratio of the value of such parties' interest, in his or her proper capacity, as ascertained under the provisions of the second subject of reference above, to the whole capital stock, as the same shall be fixed by the stockholders, shall entitle such party to have: Provided, That the appraised value of both Amasa and William Sprague's interests shall be increased by one-half the amount above provided to be by them respectively paid or secured by notes to said firm before the share apportionment: And provided further, That the amount of one of said notes or payments shall be deducted from Mrs. Mary Sprague's appraised individual interest before the share apportionment: And provided further, That Mrs. Mary Sprague shall, in her capacity of administratrix, execute and deliver a proper release to said firm of all claims due her, in her said capacity, from the firm, on account of any dividend declared in the lifetime of her husband before said share apportionment, and before the delivery of conveyance or conveyances as aforesaid.

And it is further agreed that, as soon as practicable, and within twenty days after the reports of the said referees shall have been made as above provided, a corporation shall be organized by the parties interested in the matter of the fourth subject of reference above, under the charter granted to the Quidnick Company at the May session of the General Assembly, A. D. 1862, and full and complete conveyance or conveyances and transfer or transfers shall be made by the said parties in interest, in their several capacities, to the said corporation, of all their interests in the property, assets, &c., specified in said fourth subject of reference, as the same shall stand increased or diminished at the date of conveyance by the
46 accounts hereinafter provided, to be transferred to the books of said corporation, sufficient to vest fully and entirely the title of all such property, assets, &c., so increased or diminished at the date of conveyance in the said corporation.

And it is further agreed that said Quidnick Company corporation shall assume and pay all liabilities of the Quidnick Company unsettled at the date of the delivery of the conveyances as aforesaid to said corporation; and that at or before said date the firm of A. & W. Sprague shall execute and deliver to the proper parties full discharges of all indebtedness awarded by the referees, under the sixth subject of reference above, to be due said firm from the representatives of Emanuel Rice, deceased.

And it is further agreed that, as soon as practicable after the organization of the said Quidnick Company corporation, and the delivery of the conveyance or conveyances hereinbefore provided for, each of the above-named parties interested in the matter of the fourth subject of reference above shall, in their proper capacities, receive certificates for such number of shares of the capital stock of said Quidnick Company as the ratio of the value of such parties' interest, in his or her proper capacity, as ascertaind under the provisions of

the fifth subject of reference above, to the whole capital stock, as the same shall be fixed by the stockholders, shall entitle such party to have: Provided, That one-half of the sum of the amounts provided as above to be paid or secured to said firm of A. & W. Sprague by Amasa Sprague and William Sprague shall be deducted from the appraised value of Byron Sprague's interest before the share apportionment, and that one-quarter of said sum shall be added to the appraised value of the interests of both the said Amasa and William before the share apportionment: And provided further, That the amount found due under the provisions of the sixth subject of
47 reference from any representative of Emanuel Rice to the firm of A. & W. Sprague, in any capacity, shall be deducted from the appraised value of such representatives' interest in such capacity before the share apportionment; and that the sum of all such deductions from the value of the interests of the representatives of said Rice shall be divided *pro rata* among all parties interested in the first subject of reference who were interested in the fourth subject of reference, according to the appraised interests of such parties in said fourth subject of reference in their respective capacities; and the amount assigned to each, in their respective capacities, by such *pro rata* division, shall be added to such parties' appraised interest in such capacity before the share apportionment.

And it is further agreed that, at the organization of each of said corporations, a by-law shall be passeed by each which shall provide for an annual dividend of at least six per cent., if so much has been earned, and if so much has not been earned, then of such percentage as has been earned, provided such percentage amounts to at least one per centum upon the amount of capital invested; and each such by-law shall further provide that it shall not be altered, amended, enlarged, modified, or repealed without the consent of all of the stockholders.

And it is further agreed that, in case it shall become impracticable to make an exact division of the capital stock of either of said corporations among the parties interested, according to their respective interests, without making fractional divisions of shares the said Thurston and Gardner are authorized, in case the parties interested in either of said corporations are unable to agree among themselves as to the division, to decide which of the parties interested shall receive an amount of stock which shall be greater than his or her just proportion by a fraction of a share, and which shall re-
48 ceive a correspondingly less amount; and the differences they shall adjust by determining what sum of money shall be paid by the one class to the other to equalize the same.

And it is further agreed that from and after the 31st day of March, 1865, and until conveyances are delivered to said corporations as aforesaid, the books and accounts of the firm of A. & W. Sprague and of the Quidnick Company shall be kept as heretofore; and at the time of such delivery of conveyances, or as near thereto as practicable, all accounts of business done by A. & W. Sprague, in which the parties interested in said first subject of reference above have an interest, kept after said 31st day of March shall be balanced on the

books of said firm, and the balances, and such items of said accounts as may be necessary to a correct understanding of the same, carried to the books of the A. & W. Sprague Manufacturing Company, and the accounts of the business of the Quidnick Company between such dates shall in a like manner be balanced, and the balances, and such items of said accounts as may be necessary to a correct understanding of the same, carried to the books of the Quidnick Company corporation.

To the true and faithful performance of all the agreements above made each party for himself or herself, in his or her several capacities, for his or her heirs, executors, and administrators, binds himself or herself to every other party, his or her executors or administrators, to faithfully do and perform all things by him or her to be done and performed as in this agreement specified.

In witness whereof all the parties above named have, in their respective capacities, hereunto set their hands and seals on the day and year first above written.

One date on each of the several pages, 1, 2, 3, and 4; and two dates on the 6th page being changed by interlineation before signing; also, the words "prior to," on 2d page.

49

FANNY SPRAGUE.
FANNY SPRAGUE, *Adm'x.*
MARY SPRAGUE.
MARY SPRAGUE,
Administratrix of Estate of Wm. Sprague.
MARY SPRAGUE,
Guardian of Heirs of Susan L. Hoyt.
WM. SPRAGUE.
KATE C. SPRAGUE.
AMASA SPRAGUE.
EDWIN HOYT.
BYRON SPRAGUE.
HARRIET SPRAGUE.
THOS. A. WHITMAN.
THOS. A. WHITMAN,
Executor of Estate of Emanuel Rice.
MARY AUGUSTA WHITMAN.
ALMIRA R. RICE.

Signed, sealed, and delivered in presence of—
ALMIRA SPRAGUE,
As to Fanny Sprague.

THEODORE REEVES,
Witness to signature of Mary Sprague.

S. V. MUNN,
As to W. and K. C. Sprague.

GEO. M. DANIELS,
As to A. Sprague.

THEODORE REEVES,
As to Edwin Hoyt.

Witness to signatures of Byron and Harriet Sprague,
GEO. W. CORY.

Witness to signatures of Thomas A. Whitman and Mary Augusta Whitman,
CHAS. MATHESON.

Witness:
GEO. L. PUTNAM.

We hereby accept the within appointment.
JOHN A. GARDNER.
BENJ. F. THURSTON.

50 EXHIBIT "D."

The undersigned referees, appointed, under the agreement of the parties hereto annexed, to determine the several matters therein specified in reference to such subjects as affect the interests of the parties concerned in the property held and managed by the firm of A. & W. Sprague, exclusive of the Quidnick Company property, respectfully

Report:

1st. That they find the cash value at the close of business, on the 31st day of March, A. D 1865, of the whole property, assets, rights, and credits of every name and nature, exclusive of the Quidnick Company property, then held and managed by the firm of A. & W. Sprague, in which the representatives of the late Amasa and W. Sprague, deceased, who had not prior to said time disposed of their portions therein, then had an interest, was the sum of $6,732,906.69.

2d. That they find the value, at said time, of the respective interests of the respective parties therein, in their several and respective capacities, after deducting the amount of all the existing liabilities of the firm, which the property specified in the first subject of reference above should contribute to the payment of from the cash value of said property, assets, &c., ascertained as above to be as follows:

The liabilities for all causes amount to the sum of	$2,871,921 79
Leaving the net value of the said estate	3,860,984 90
Mary Sprague's individual interest therein is	624,984 69
Fanny Sprague's interest	625,511 69
William Sprague's do	978,867 42
Amasa Sprague's do	978,867 42
Mary Sprague, guardian of children of Susan Hoyt	652,753 68

51 3d. That they find the amount at said time due by the firm to each party, in each and every capacity, and the amount due from each party, in each and every capacity, to the firm, and the amount due Mary Sprague, in her capacity of administratrix

from the firm, on account of dividend declared in the lifetime of her husband, to be as follows:

Due from the firm to Mary Sprague, individually	$13,082 44
Due on account of dividend to her as administratrix	164,250 26
Total due	$177,332 70
Due from William Sprague to the firm	$171,499 43
Due from the firm to him	40,447 05
Balance of indebtedness to firm	$131,052 38
Due from Amasa Sprague to the firm	$171,499 43
Due from the firm to him	81,851 84
Balance of indebtedness to firm	$89,647 59
Due from the firm to Fanny Sprague	$12,250 71
Due from Fanny Sprague to the firm	5,814 13
Balance due from firm	$6,436 58
Due to Mary Sprague, guardian of heirs of Susan Hoyt, from firm	$188,333 33

4th. That they further find the market value per share, excluding interest thereon, at said time of all the bank and insurance stocks, and the market value, excluding interest thereon, at said time, of each H., P. & F. R. R. Co. bond held and managed by said firm, and included in the first subject of reference, to have been:

52	766 shares	Globe Bank	$50 per share
	200 "	Arcade "	25 "
46	shares	Mechanics' Bank	49½ "
91	"	High St. Bank	50 "
54	"	What Cheer	50 "
323	"	Bank of Commerce	50 "
17	"	Bank of North America	50 "
1194	"	Second National	104 "
12	"	Liberty	48½ "
111	"	Continental, N. Y.	100 "
142	"	Manhattan	140 "
500	"	4th National	90 "
133	"	Merchants' Ins. Co.	60 "
148	"	American	62½ "
82	"	Roger Williams Ins. Co.	52 "
50	"	Equitable "	50 "
15	"	Commercial "	61 "
110	"	City "	49 "
200	"	Narragansett "	51 "
50	"	Atlantic "	51 "
569	bonds of $1,000,	H., P. & F. R. R Co.	1,000 each

And the *pro rata* number of said bonds and shares of stock re-

quired to make a total appraised value of such bonds and shares equal, as near as may be, to the sum of $75,000, for the purposes mentioned in said agreement, is as follows:

66	shares of	Globe Bank	at	$50	$3,300 00
17	"	Arcade "	"	25	425 00
4	"	Mechanics' Bank	"	49	197 00
9	"	High St. "	"	50	450 00
6	"	What Cheer "	"	50	300 00
28	"	Bank of Commerce	"	50	1,400 00
2	"	Bank of North America	"	50	100 00
102	"	2d National	"	104	10,608 00
	1 share of	Liberty	"	48½	48 50
53	10 "	Continental, N. Y.	"	100	1,000 00
	12 "	Manhattan, "	"	140	1,680 00
42	shares of	4th National	"	90	3,780 00
11	"	Merchants' Ins. Co.	"	60	660 00
13	"	American Ins. Co.	"	66½	864 50
7	"	Roger Williams	"	52	364 00
5	"	Equitable	"	50	250 00
1	"	Commercial	"	61	61 00
9	"	City Ins. Co.	"	49	441 00
17	"	Narragansett Ins. Co.	"	51	867 00
4	"	Atlantic Ins. Co.	"	51	204 00
48	bonds,	H., P. & F. R. R. Co.	at	1,000	48,000 00
					$75,000 00

They further find that the estate of Edmund Rice was indebted at said time to the firm of A. & W. Sprague in the sum of $61,116,13.

Respectfully submitted,

(Signed) BENJ. F. THURSTON,
" JOHN A. GARDNER,
Referees.

July 1st 1865.

[Stamp.]

By agreement between parties in interest, through referees, the amount due Mary Sprague, administratrix, is to be added to the capital of the company, she to receive payment therefor in stock of company at appraised value.

Hence the following entry:

Mary Sprague, Administratrix, to Stock.

For balance of her account transferred to stock account, as per above explanation $164,250 26

54 The amount as reported by referees to be due Mary Sprague in her individual capacity, viz., $13,082.44, has been settled by cash payments, as shown by books of A. & W. Sprague, thus:

August 10th, 1865	$500 00	
" 21st, "	12,582 44	
		$13,082 44

Statement as to division of the stock in the A. & W. Sprague Manufacturing Co.:

Mary Sprague's portion, per report	$624,984 69
Fanny Sprague's " "	625,511 69
Amasa Sprague's " "	978,867 42
William Sprague's " "	978,867 42
Mary Sprague, guardian	652,753 68
	$3,860,984 90
Add administratrix dividend to capital, as per entry on preceding page	164,250 26
Total net valuation	$4,025,235 16

10,000 shares of stock at above valuation are 402\frac{5235}{10000}$ each. The respective parties' interests would be as follows:

Mary Sprague, $186\frac{1306290}{4025235}$ or $186\frac{3244}{10000}$ shares	$75,000 00
Mary Sprague, 1, $366^{1375806}$ or $1{,}366^{3418}$ shares	549,984 69
	$624,984 69
Fanny Sprague, $1{,}553^{3926945}$ or $1{,}553^{9755}$ shares	625,511 69
Amasa Sprague, $2{,}431^{3327915}$ or $2{,}431^{8267}$ "	978,867 42
William Sprague, 2, $431^{3327915}$ or $2{,}431^{8267}$ "	978,867 42
M. Sprague, g'rd'n, $1{,}621^{2630865}$ or $1{,}621^{6536}$ "	652,753 68
M. Sprague, adm'x, 408^{206720} or 408^{0513} "	164,250 26
10,000 shares	$4,025,235 16

By agreement, $75,000 of Mary Sprague's stock, equivalent to $186\frac{3244}{10000}$ shares, is purchased one-half each by Amasa and
55 William Sprague—Mary Sprague to receive payment therefor in stocks and bonds to amount of $75,000, as shown in detail in referees' report—Amasa and William Sprague paying for said stocks and bonds by their demand notes, with interest.

The stock interests thus stand:

Mary Sprague	$1{,}366^{3418}$	$549,984 69
Fanny Sprague	$1{,}553^{9755}$	625,511 69
Amasa Sprague	$2{,}524^{9889}$	1,016,367 42
William Sprague	$2{,}524^{9889}$	1,016,367 42
M. Sprague, guardian	$1{,}621^{6536}$	652,753 68
M. Sprague, administ'x	408^{0513}	164,250 26
	10,000 shares	$4,025,235 16

As per agreement, 48 bonds of the H., P. & F. R. R. Co., representing $48,000, and certificates of stock in various banks and insurance companies, representing $27,000, as detailed in report of referees, were made over to Mary Sprague on the 9th day of August, 1865, and receipted for by her attorney, Benj. F. Thurston, August 14th, 1865.

Of this amount the following parties are debited in account:

Amasa Sprague, with his half proportion	as cash	$37,500
William Sprague, " " " "	Aug. 9, '65	37,500
		$75,000

And the following accounts credited thus:

Bond account, for value of bonds delivered	$48,000	
Shares " " " shares "	27,000	
		$75,000

As per agreement, also bonds and certificates of stock of like character and amount as above were made over to Byron
56 Sprague on the 9th day of August, 1865, and receipted for by his attorney, Benj. F. Thurston, August 14th, 1865.

These bonds and stocks to be charged, one-half each, to Amasa and William Sprague, who are to receive payment therefor in Quidnick Company stock at appraised value, as above debit.

Amasa Sprague, for his ½ proportion, cash, August 9th, 1865	$37,500
William Sprague, for his ½ proportion, cash, August 9th, 1865	37,500
	$75,000

And credit:

Bond account for value of bonds delivered	$48,000	
Shares " " " shares "	27,000	
		$75,000

At time of delivery of above specified one hundred and fifty thousand dollars ($150,000) in bonds and stocks notes were received in payment for same as follows: one from Amasa Sprague, dated August 9th, 1865, payable to the order of the A. & W. Sprague Manufacturing Co. on demand with interest for $75,000 and one from Wm. Sprague of same date, tenor, time and amount.

Hence the following entry:

Bills Receivable to Sundries.

To notes received from		
Amasa Sprague, as stated above	$75,000	
William Sprague, " "	75,000	
		$150,000

57 *Statement of Division of Fractional Shares.*

By reference it will be seen that each party's fractional interest is as follows:

Mary Sprague	3418-10000	Equivalent to		$137 58
Fanny Sprague	9755-10000	"	"	392 66
Amasa Sprague	9889-10000	"	"	398 06
William Sprague	9889-10000	"	"	398 06
Mary Sprague, g'd'n	6536-10000	"	"	263 08
Mary Sprague, adm'x	0513-10000	"	"	20 65
	4 shares @ 402^{5235}			$1,610 09

By mutual agreement Amasa and William Sprague purchased the above fractional shares (taking two each), and the following parties are therefore credited with amounts affixed to their names, same being the value of their respective fractional interest—thus:

Mary Sprague	$137 58
Fanny Sprague	392 66
M. Sprague, g'd'n	263 08
M. Sprague, adm'x	20 65
	$813 97

And the following parties are debited thus:

Amasa Sprague, for his half interest in above purchase	$406 99
William Sprague, for his half interest in above purchase	406 98
	$813 97

Stock to Capital Stock.

58 For amount transferred from stock account to capital stock account, being for ten thousand (10,000) shares of stock at $100 per share, par value, representing capital stock of this company, as authorized by charter, owned and held as per certificates given this date, as follows:

Thirteen hundred and sixty-six (1,366) shares, by Mary Sprague.
Fifteen hundred and fifty-three (1,553) shares, by Fanny Sprague.
Twenty-five hundred and twenty-six (2,526) shares, by Amasa Sprague.
Twenty-five hundred and twenty-six (2,526) shares, by William Sprague.
Sixteen hundred and twenty-one (1,621) shares, by Mary Sprague, g'd'n.
Four hundred and eight (408) shares, by Mary Sprague, adm'x.
Total, 10,000 shares @ $100, 1,000,000.

Stock to Surplus Capital.

For amount transferred from stock account to surplus capital account, being balance of capital (net assets), as shown by these books, over and above amount of capital stock authorized by charter, $3,025,235.16.

The sum of $61,116.13, due from the estate of Emanuel Rice, is, by agreement, to be canceled by transfer of Quidnick Company stock owned by the said estate, at appraised value of $155\frac{213}{1000}$, the transfer to be made to individual parties in interest in this company in proportion to such interest, and added to their previous interest in the Quidnick Company.

The $61,116.13 is therefore debited proportionately to the individual accounts of stockholders in this company, their value received for same being in Quidnick Company stock, as shown below, and on the Quidnick Company books.

59 At the appraised value of $155[213] per share, $61,116.13 is equivalent to 393[76] shares, apportioned as per following entry (as cash, March 31st, 1865):

Sundries to Est. of Emanuel Rice.

For the following to balance account of est. of Emanuel Rice, as explained above, for proportion of this account chargeable.

Mary Sprague, representing	53.38	shares Quidnick Co. stock, @	115.213	--	$8,285 26
Fanny Sprague, "	61.29	"	"	--	9,513 00
Amasa Sprague, "	99.41	"	"	--	15,429 47
William Sprague, "	99.41	"	"	--	15,429 47
Mary Sprague, g'd'n, "	63.58	"	"	--	9,859 12
Mary Sprague, adm'x "	16.75	"	"	--	2,599 81
Total	393.76	Cash, March 31st, 1865			$61,116 13

Quidnick Company to Expense Account.

For amount paid Byron Sprague, August 15th, 1865, in settlement of fractional shares in Quidnick Company, $10.86.

Papers relating to foregoing subject are on file in safe in box marked "Papers relating to the organization of the A. & W. Sprague Manufacturing Company and Quidnick Company.

Sundries to Quidnick Company.

For amounts due Quidnick Company from following parties, hereby transferred to their debit on these books:

Amasa Sprague	$38 81	
William Sprague	38 81	
		$77 62

Fanny Sprague, Cr., to Quidnick Co., Dr.

For amount due her from Quidnick & Co. hereby transferred to her credit on these books, $4.66.

60 EXHIBIT "E."

The undersigned, referees appointed under the agreement of the parties hereto annexed to determine the several matters therein specified in reference to such subjects as affect the interests of the parties concerned in the property of the Quidnick Company, held and managed by the firm of A. & W. Sprague, respectfully

Report:

1st. That they find that the cash value at the close of business on the 31st of March, 1865, of the whole property, assets, rights, and credits of every name and nature of the Quidnick Company, then held and managed by the firm of A. & W. Sprague, was the sum of $776,065.

2d. They further find the value at said time of the respective interests of the respective parties then interested in said Quidnick Company property in their several and respective capacities, after

deducting the amount of all existing liabilities of the company from the value of the said property, assets, &c., ascertained as above, to have been as follows:

Byron Sprague's interest	$144,856 07
Mary Sprague, guardian of heirs of Susan Hoyt, interest	65,353 23
Mary Sprague, in her individual right	83,948 80
Edwin Hoyt, as tenant by the courtesy of 2-27, and by virtue of his marital rights in personalty	50,759 70
William Sprague	114,972 60
Amasa Sprague	114,972 60
Fanny Sprague	114,972 60
Estate of Emanuel Rice	86,229 45

61 3d. They further find that the Quidnick Company was not indebted to any of the parties, nor were any of the parties indebted to the company.

4th. They further find that the estate of Emanuel Rice was indebted at said time to the firm of A. & W. Sprague in the sum of $61,116.13.

Respectfully submitted,

(Signed) BENJ. F. THURSTON,
JOHN A. GARDNER,
Referees.

July 10th, 1865.

62 EXHIBIT "F."

To the honorable the court of probate of the town of Warwick:

The petition of Mary Sprague, of Warwick, in the county of Kent, respectfully represents:

That she is, by the appointment of this honorable court, the guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased.

That her said wards are largely interested in the manufacturing property belonging to the firm of A. & W. Sprague, and are also the owners of a large interest in the property of the Quidnick Company, a copartnership for manufacturing purposes, in which the firm of A. & W. Sprague are the principal owners and are the managers.

And she further represents that, in view of the contemplated organization of two manufacturing corporations under the names of the A. & W. Sprague Manufacturing Company and the Quidnick Company, which were to hold respectively the manufacturing properties and effects which belonged to the firms above mentioned, she applied to the General Assembly for leave, as the guardian of said minor children, to make, execute, and deliver to such corporations, when organized, full conveyances of the right, title, and interest of her said wards in and to the properties to be transferred to such corporations, and the General Assemby did, at its January session, A. D. 1863, grant her said petition, and did authorize and empower her, in her said capacity, to make, execute, and deliver to such corpora-

tions, when organized, full conveyances of all the right, title, and interest of her said wards in and to the properties to be transferred to such corporations; and the said General Assembly did declare that such conveyances should be deemed and held as valid and effectual in law and in equity to vest the title of said minors in any
63 such corporation or corporations as though the same had been executed by said minors after attaining to their majority.

But the General Assembly imposed the condition that, before the delivery of any such conveyance, the said Mary Sprague should execute and deliver to the court of probate of Warwick such bond or bonds, with herself and Edwin Hoyt as principal, and with such other sureties and in such penal sum as the said court should require, with condition to invest the full amount of the interest of such minors in the proportion to be conveyed to such corporations in the name and for the use and benefit of said minors.

And your petitioner represents that the corporation of the A. & W. Sprague Manufacturing Company and the corporation of the Quidnick Company are now duly organized, and it becomes necessary to make conveyance of the interests of her said wards in and to the firms of A. & W. Sprague and the Quidnick Company to said corporations, and she therefore prays your honorable body to approve of the bond herewith tendered in compliance with the resolution of the General Assembly, or to make such order or direction in reference thereto as shall seem to be proper to your honors;

And whereas, also, the said Mary Sprague is advised that your honorable body have full jurisdiction over applications of guardians for leave to sell the property of their wards for the purpose of making for them a more advantageous investment;

And whereas your petitioner has also been advised that it is desirable to have, in a matter of so great consequence to her wards, the authority and approval of your honorable body for any sale or change of condition of their property, in addition to the authority conferred upon her by the resolution of the General Assembly before referred to;

And whereas it will be greatly for the benefit of her said
64 wards that the interest which they have in the properties belonging to the firm of A. & W. Sprague and to the Quidnick Company should be exchanged for their value in a definite number of shares of the capital stock of corporations owning the same properties which the said firm held and managed, and thereby enable the other estate of her said wards to be unaffected by any changes which may befall the business of manufacturing goods in which this portion of their estate is invested;

And whereas all parties interested in the property of the Quidnick Company and in the property of the firm of A. & W. Sprague have heretofore agreed in writing that the value of the interest of each in the properties of said firm respectively should be determined by Benjamin F. Thurston and John A. Gardner, Esquires, referees chosen by the parties, and said referees have fulfilled their appointment and made their report to the parties, defining the value of the interest of each in the properties of said firm respectively;

And whereas it appears from the report of said referees that the interest of your petitioner's wards in and to the property of the firm of A. & W. Sprague amounted, on the 31st day of March, 1865, to the sum of $652,753.68, and that their interest in and to the property of the firm of the Quidnick Company amounted on the same day to the further sum of $65,353.23;

And whereas corporations under the names of the A. & W. Sprague Manufacturing Company and the Quidnick Manufacturing Company have been organized pursuant to the authority contained in charters heretofore granted by the General Assembly, which corporations, it is intended, shall hold respectively the same properties, assets, and effects which have heretofore been held by the partnerships under the name of A. & W. Sprague and the Quidnick Company, and each of the parties interested in said copartnership have agreed to
65 transfer all their right, title, and interest in the properties of such copartnership to said corporations respectively, and to receive therefor the equivalent value of their interests in the stock of such corporations:

Now, therefore, in view of the premises, and of the greater convenience and safety with which such profits can be managed when in the form of stock in a corporate company, and of the benefit and advantage which will otherwise accrue to her said ward's estate, your petitioner prays that she may be authorized and fully empowered by this honorable court to make sale of all the right, title, interest, and property of her said wards, the said Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, in and to the property, right, credits, and effects of the firm of A. & W. Sprague, as the same was at the close of business upon the 31st day of March, A. D. 1865, with all additions thereto and increase thereof to the date of conveyance to the A. & W. Sprague Manufacturing Company, a corporation created by the General Assembly of the State of Rhode Island, upon receiving from such corporation in full satisfaction for such conveyance the sum of $652,753.68 in the capital stock of said corporation, so that the interest of said minors in the capital stock of said corporation shall bear the same proportions to the whole capital stock of the company as their interest in the property of the firm of A. & W. Sprague, as ascertained to have been on the 31st day of March, 1865, bore to the whole property of said firm upon said day.

And that she may in like manner be authorized and empowered to make sale of all the right, title, interest, and property of the said wards in and to the property, rights, credits, and effects of the firm of the Quidnick Company, as the same was at the close of business on the 31st day of March, A. D. 1865, with all the additions
66 thereto and increase thereof to the date of conveyance to the corporation heretofore created by the General Assembly, with the name of the Quidnick Company, upon receiving from such corporation in full satisfaction for such conveyance the sum of $65,353.23 in the capital stock of said corporation, so that the interest of said minors in the capital stock of said corporation shall bear the same proportion to the whole capital stock of the company as their in-

terest in the property of the firm of the Quidnick Company, as ascertained to have been on the 31st of March, 1865, bore to the whole property of said firm.

And will ever pray.

MARY SPRAGUE, *Guardian.*

67 EXHIBIT "G."

At a special court of probate holden in and for the town of Warwick, August 5th, A. D. 1865.

The petition of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan Sprague Hoyt, deceased, in writing, praying that she may be by this court authorized, in her capacity as guardian of said minors, to exchange the interest which said minors have in the property, assets, and effects of the firm of A. & W. Sprague, and of the firm of the Quidnick Company for its equivalent value in the capital stock of the corporated companies of the A. & W. Sprague Manufacturing Company and the Quidnick Company, is presented to this court; and it appearing that the said petition was filed in the office of the clerk of this court on the 18th day of July last, and that the clerk, on the application of said Mary Sprague, has given notice to all persons interested, by advertisement of such notice in the Manufacturers' and Farmers' Journal for fourteen days, once a week; and such mode of notice on said petition being satisfactory, said petition is read, and, no person appearing to object, upon consideration thereof it is ordered, adjudged and decreed that the prayer of said petition be granted, and that said Mary Sprague, as such guardian, is adjudged to have complied in all respects with the condition imposed by the General Assembly, by its resolution upon her petition to make conveyance of the interest of such minors, passed at the January session, A. D. 1863.

And it is furthermore ordered, adjudged, and decreed upon the petition of the said Mary Sprague, as guardian aforesaid in their behalf, that she be, and she is hereby, authorized and ful ly empowered to make conveyance of all the estate, right, title, interest, and property which Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and

68 William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, have in and to the property, assets, rights, credits, and effects of the firm known as the Quidnick Company, to the Quidnick Company, incorporated by the General Assembly, for the sum of sixty-five thousand three hundred and fifty-three $\frac{32}{100}$ dollars in the capital stock of the said incorporated Quidnick Company, and invest the same in such numbers of shares thereof as shall make the interest of said minors to the whole capital stock of the company in the same proportion as their interest before such transfer and conveyance bore to the whole property of the firm of the Quidnick Company; and it is further ordered, adjudged, and decreed that the said Mary Sprague, guardian as aforesaid of said minors, be, and she is hereby, authorized and fully empowered to

make conveyance of all the estate, right, title, interest, and property which Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, have in and to the property, assets, rights, credits, and effects of the firm of A. & W. Sprague, to the A. & W. Sprague Manufacturing Company, incorporated by the General Assembly, for the sum of six hundred and fifty-two thousand seven hundred and fifty-three $\frac{68}{100}$ dollars in the capital stock of the said incorporated company, and to invest the same in such number of shares thereof as shall make the interest of said minors to the whole capital stock of the company in the same proportion as their interest before their transfer and conveyance bore to the whole property of the firm of A. &. W. Sprague; that said Mary Sprague give bond, and Edwin Hoyt, as principals, with Byron Sprague and William Sprague as sureties, in the penal sum of ten thousand dollars, with condition that the said Mary, as guardian of the said Edwin Hoyt, Jr., Susan Hoyt, Sarah Hoyt, and William S. Hoyt, will invest the full amount of the full value of the interest of said minors in the firm proportion of the Quidnick Company and of A. & W. Sprague Manufacturing Company in the capital stock of the corporation chartered under these names respectively.

69 EXHIBIT "H."

From Manufacturers' and Farmers' Journal, July 20th, July 27th, and August 3d, 1865.

CLERK'S OFFICE OF THE COURT OF PROBATE,
WARWICK, *July 19th,* 1865.

Estate of Edwin, Susan S., Sarah, and William S. Hoyt (minors).

Mary Sprague, guardian of the estates of Edwin Hoyt, Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minors, hath this day filed her petition in writing, in this office, to said court, to be holden on the 5th day of August next, at 2 o'clock p. m., at the council-room in said Warwick, representing that said minors are seized and possessed of a certain interest in the manufacturing property belonging to the firm of A. & W. Sprague, situate in the towns of Coventry, Warwick, and Cranston; also in the property of the Quidnick Company, a copartnership for manufacturing purposes, situate in said towns of Coventry and Warwick, or wherever said property may be situate or lying, and praying that she may be authorized and empowered in her said capacity to sell, at private or public sale, all the interest which the said minors have in said property and estate, for the purpose of making a more advantageous investment of the proceeds of such sale for the benefit of said minors, according to law, and hath applied to me to give notice thereof. Notice is hereby given to all persons interested in said petition then and there to appear, if they see fit, to be heard in relation to the same.

C. R. HILL, *P. Clerk.*

70 EXHIBIT "I."

Know all men by these presents that we, Mary Sprague, of Warwick, in the county of Kent, and Edwin Hoyt, of the city, county, and State of New York, as principals, and Byron Sprague, of the town of Warwick and county of Kent, in the State of Rhode Island, and William Sprague, of South Kingstown, in said State, as sureties, are holden and firmly bound unto the court of probate of Warwick in the penal sum of ten thousand dollars; to the payment of which we bind ourselves, our several and respective heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this fifth day of August, A. D. eighteen hundred and sixty-five.

The condition of the foregoing obligation is such that whereas the said Mary Sprague is guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, and has applied for and obtained authority from the General Assembly and from the court of probate of Warwick to make sale and conveyance of all the estate, right, title, and interest of said minors in and to the properties of the firm of the Quidnick Company and of the firm of A. & W. Sprague to the corporations of the Quidnick Company and the A. & W. Sprague Manufacturing Company respectively:

Now, if said Mary Sprague shall invest the amount of the full value of the interest of such minors in such firm properties in the capital stock of said incorporated companies respectively so that the interest of such minors shall bear the same proportion to the whole capital stock of such companies respectively as their
71 interests before such sale and conveyance bore to the whole properties of such firms, respectively, then this obligation shall be void; otherwise of full force and virtue.

MARY SPRAGUE. [SEAL.]
EDWIN HOYT. [SEAL.]
BYRON SPRAGUE. [SEAL.]
WM. SPRAGUE. [SEAL.]

In presence of—
NEHEMIAH KNIGHT,
J. B. NOYES.

[Stamp, cancelled. W. Sprague. Aug. 5, 1865.]

GEO. W. CORY,
To signature of Byron Sprague.
NEHEMIAH KNIGHT,
J. B. NOYES,
As to Edwin Hoyt.
BENJ. F. THURSTON,
JOHN A. GARDNER,
As to Mary Sprague, as to signature of William Sprague.

Words "as the same was on the 31st day of March, A. D. 1865," on the first page, erased before execution; also the name of William Sprague inserted as surety, and the date changed from July 17th to August 5th before signing.

72 EXHIBIT "K."

[U. S. Revenue. $1,000 Stamp.]

Know all men by these presents that we, Fanny Sprague, of Cranston, in the county of Providence and State of Rhode Island, in her individual capacity and in her capacity of administratrix upon the estate of the late Amasa Sprague, deceased; Mary Sprague, of Warwick, in the county of Kent, in said State, in her individual capacity and in her capacity of administratrix upon the estate of the late William Sprague, deceased, and also in her capacity of guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan Hoyt, deceased (in her said capacity as guardian, pursuant to authority of a resolution of the General Assembly of said State passed at the January session, A. D. 1863, and the decree of the probate court of said town of Warwick, of record in the town clerk's office of said town, entered August 5, 1865); William Sprague, of South Kingston, in the county of Washington, in said State, and Amasa Sprague, of said Cranston, for and in consideration of the covenants and agreements mutually made and entered into by and between the grantors and others, recited in a certain agreement of reference made and entered into on the first day of April, A. D. 1865, for the purpose, among other things, of vesting all the right, title, and interest of the parties interested in a certain property held and managed by the firm of A. & W. Sprague, exclusive of the Quidnick Company property in the A. & W. Sprague Manufacturing Company, and the further consideration of one dollar to each of us in our respective capacities paid by the A. & W. Sprague Manufacturing Company, a corporation duly created by the General Assembly of said State, located and doing business in Providence, the receipt whereof we do hereby acknowledge, have
73 remised, released, and forever quit-claimed, and by these presents do remise, release, and forever quit-claim, unto them, the said A. & W. Sprague Manufacturing Company, their successors and assigns, forever.

All of each of said minors, and all our and each of our rights, titles, interest, property, claim, and demand in our several and respective capacities of every nature, whether derived as heirs-at-law or personal representatives of the late Amasa Sprague, deceased, and William Sprague, deceased, or of either of them, or however derived or derivable in possession or action, reversion, or remainder, which we and said minors, severally and collectively, in our several and respective capacities have or ought to have or claim in law or in equity in and to all the property, estate, assets, rights, and credits, real, personal, and mixed, choses in action, easements, franchises, land covered with water, water rights, rights of flowage, poundage and drainage, bills receivable, notes, bonds, stocks, mortgages, collateral and other securities, patent rights, accounts, claims, books of account, evidences, and muniments of title relating to the same or any portion thereof, thereunto, or to any part or parcel thereof appertaining of every description whatever situate and in whatsoever name or names any record titles thereof or of portions thereof may

stand (the record titles generally standing either in the name or names of the late Amasa Sprague, deceased, William Sprague, deceased, or some one or more of their heirs or representatives, or the heirs or representatives of one or both of them, or in the name of the firm of A. & W. Sprague), in the possession of and held, managed, and controlled by the firm of A. & W. Sprague, of Providence, its lessees, agents, and attorneys; and in all and to all such property, estate, demands, and rights of every description whatever situate in and to which said firm has any legal or equitable claims not fully determined, established, and reduced to possession, saving and excepting in and to the Quidnick Company, consisting of Quid-
74 nick Mills Nos. one and two and appurtenances, in the town of Coventry, in said State, and the Arctic Mill estate in said Warwick, with the other property belonging exclusively to said Quidnick Company, and the stocks and bonds designated in the referees' report, made in pursuance of the aforesaid agreement of reference, to be transferred and delivered in accordance with the provisions of said agreement of reference to Mary Sprague and Byron Sprague by said firm of A. & W. Sprague before the delivery of this conveyance; and also excepting all the property, rights, credits, and assets at any time heretofore held and managed by the firm of A. & W. Sprague which had been charged to the grantors, said Amasa and William, either jointly or severally, on the books of said firm prior to the close of business on the first day of July, 1865; which property so charged is understood and agreed by all parties hereto in their several and respective capacities to belong exclusively to them, the said Amasa and William, and each of them, as charged.

It being expressly understood that this conveyance is made upon condition that the grantees are to assume the liabilities of said firm of A. & W. Sprague, in accordance with said agreement of reference hereinbefore referred to.

To have and to hold the same, with all the rights, privileges, and appurtenances thereof or thereunto appertaining to them, the said A. &. W. Sprague Manufacturing Company, their successors and assigns, forever.

And we, the aforenamed grantees, in our several and respective capacities, for ourselves and our respective heirs, executors, and administrators, do covenant with the said A. & W. Sprague Manufacturing Company, their successors and assigns, that we will warrant and defend all the premises property, and rights herein described and conveyed to them, the said A. & W. Sprague Manufacturing Company, their successors and assigns, forever, against the
75 lawful claims and demands of all persons claiming by, through, or under us, or either of us, in any capacity.

And the said Mary Sprague, for herself, her heirs, executors, and administrators, covenants with said company, their successors and assigns, that she will warrant and defend all the same to said company, their successors and assigns, forever, against the lawful claims and demands of the said minors and their heirs, executors, and ad-

ministrators, and all persons claiming the same, or any part thereof, by, from, or under them, or either of them.

And we, the aforenamed grantors, in our several and respective capacities, for ourselves and our respective heirs, executors, and administrators (the said Mary, for herself, her heirs, executors, and administrators, in her capacity as guardian, also for said minors and their respective heirs, executors, and administrators), do hereby further covenant with the said A. & W. Sprague Manfacturing Company, their successors and assigns, that the grantors, in their several and respective capacities, their respective heirs, executors, and administrators, said minors respectively and their respective heirs, executors, and administrators, at the request and at the charges of the said A. & W. Sprague Manufacturing Company, their successors and assigns, shall and will, from time to time, and at all times hereafter, execute, stamp, acknowledge, and deliver, or cause to be executed, stamped, acknowledged, and delivered, all and every such further and other acts, conveyances, and assurances in the law for the better assuring to the said company, their successors and assigns, of the premises, property, and rights herein conveyed in manner as above conveyed, or mentioned and intended to be conveyed, as by the said company, their successors and assigns, or the counsel of either, learned in the law, shall be reasonably advised or required.

Stamp duty paid. L. B. Friese, Collector of Internal Revenue.

76 And I, Kate C. Sprague, wife of the said William Sprague, for and in consideration of the aforesaid consideration paid to and acknowledged by my said husband, do hereby remise, release, and forever quit-claim all my right of dower in and to the aforegoing described and conveyed property and rights unto said A. & W. Sprague Manufacturing Company, their successors and assigns, forever.

In testimony whereof we have, individually and in our several and respective capacities aforesaid, hereunto set hand and seals this ninth day of August, A. D. one thousand eight hundred and sixty-five.

FANNY SPRAGUE. [L. S.]
FANNY SPRAGUE, [L. S.]
Administratrix.
MARY SPRAGUE. [L. S.]
MARY SPRAGUE, [L. S.]
Adm.
MARY SPRAGUE, [L. S.]
Guardian.

Witness- to signatures of—
KATE C. SPRGAUE,
HATTIE R. CHASE,
ALICE UNA SKINNER.

WM. SPRAGUE. [L. S.]
AMASA SPRAGUE. [L. S.]
KATE C. SPRAGUE. [L. S.]

Witnesses to the signature of Fanny Sprague and Fanny Sprague, administratrix,

ALMIRA SPRAGUE AND
JOHN A. GARDNER.

Witnesses to signatures of Wm. Sprague and Amasa Sprague,

JOHN A. GARDNER AND
L. B. FREEZE.

Witnesses to signature of Mary Sprague in her several capacities,

B. F. THURSTON,
JOHN A. GARDNER.

STATE OF RHODE ISLAND, }
And Providence Plantation, Providence, } ss:

In the city of Providence, on the 9th day of August, 1865, then personally came Fanny Sprague, and in her individual ca-
77 pacity, and in her capacity of administratrix upon the estate of Amasa Sprague, deceased, acknowledged the foregoing instrument by her, in her said capacities signed, to be her free and voluntary act and deed.

And on the same day personally came William Sprague and Amasa Sprague, and severally acknowledged the same, by them respectively executed, to be their free and voluntary act and deed; and on the 10th day of August, 1865, personally came Mary Sprague, and in her individual capacity, in her capacity of administratrix upon the estate of William Sprague, deceased, and in her capacity of guardian of the estates of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and Wm. S. Hoyt, minor children of Susan Hoyt, deceased, acknowledged the aforegoing instrument, by her in her said capacities signed, to be her free and voluntary act and deed and the free and voluntary act and deed of each and all of said minors.

Before me at Providence—

[L. S.] JOHN A. GARDNER,
Public Notary.

Recorded August 15, 1865, at 12.20 p. m.

Witness:
SAMUEL W. BROWN,
City Clerk.

78 EXHIBIT "L."

Guardian's Appraiser Warrant.

THE STATE OF RHODE ISLAND, }
And Providence Plantation, Kent, } *sc:*

[SEAL.] By the court of probate of the town of Warwick, in the county of Kent and State aforesaid.

To John A. Gardner, Benjamin F. Thurston, and George W. Cory, all of the city and county of Providence, in said State, Greeting:

You are hereby appointed and empowered as three suitable persons to take an inventory of all the real and personal estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and Wm. S. Hoyt, minors, and according to your best skill and judgment truly and justly to appraise the same as soon as may be in dollars and cents, and according to the present value thereof, being first sworn or affirmed to the faithful discharge of that trust; and when you shall have completed said inventory, as aforesaid, you are to return the same, together with this warrant, with your doings thereon, to the office of the clerk of said court, or to seal up and deliver the same to Mary Sprague, who has been appointed by said court guardian of the estate of Susan S., Sarah, Edwin S., and William S. Hoyt, minors, who is hereby accordingly directed so to return and exhibit the same on oath to said court of probate within three months from the time of taking upon herself that trust.

In testimony whereof we have caused the seal of said court to be hereunto affixed this eighteenth day of June, A. D. eighteen hundred and sixty-six.

Providence, sc: June 25th, A. D. 1866.

C. R. HILL,
Dep. Probate Clerk.

79 Then the above-named John A. Gardner, Benjamin F. Thurston, and George W. Cory personally appeared and made oath that they would faithfully and impartially discharge the trust imposed in them by the foregoing warrant.

Before me—

WALTER B. VINCENT.

Endorsed: Estate of Sarah and Susan S. Hoyt, &c. Appraisers' warrant. January 25th, 1866.

80 EXHIBIT "M."

The undersigned, appointed by the honorable the court of probate of the town of Warwick to take an inventory of the personal estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, by virtue of the annexed warrant, respectfully report that they were duly engaged upon the annexed warrant, and, having made careful examination, present the following as the inventory of all the personal estate of Edwin Hoyt, Jr., within this State which has come to their knowledge:

124 shares National Bank of Commerce, $51	$6,324 00
1 United States 6 per cent. bond	108 50
2 N. Y., Prov., & Boston R. R. bonds, $950.00	1,900 00
439 shares A. & W. Sprague M'f'g Co. stock, 402^{525}	176,707 82
122 shares Quidnick Co. stock	18,935 98
Cash	387 44
	$204,363 74
Dividend due from A. & W. Sprague, as cash, March 31, 1865, with interest from that date	47,083 34
	$251,447 08

BENJ. F. THURSTON.
JOHN A. GARDNER.
GEORGE W. CORY.

PROVIDENCE, *ss:*

In the city of Providence, on the 11th day of August, A. D. 1866, personally appeared Mary Sprague, guardian of the estate of
81 Edwin Hoyt, Jr., and made oath that the inventory hereto annexed is a just, true, and perfect inventory of all the goods, chattels, rights, and credits of the said Edwin Hoyt, Jr., which have come to her hands, possession, or knowledge.

Before me—

BENJAMIN F. THURSTON,
Notary Public.

[United States revenue stamp, 5 cents.]

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the inventory of the goods and chattels, rights and credits of Edwin Hoyt, Jr., minor ward of Mary Sprague, which said inventory amounts to two hundred [and] fifty-one thousand four hundred [and] forty-seven dollars and eight cents, it appearing that said guardian has made oath to the truth thereof, and no person appearing to object, the court decreed that said inventory be received and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded August 20th, A. D. 1866.

STATE OF RHODE ISLAND, &c., } *sc:*
County of Kent, }

In Warwick, in said county and State, on this, the 15th, day of July, A. D. 1875, I certify that the aforegoing is a full and true copy from the records in the office of the clerk of the court of probate of said Warwick, as will fully appear on referring to page 279 of Book 14 of Record of "Wills," &c.

Attest my hand and the seal of said court of probate this the day and year above written.

[L. S.] SAM. W. CLARKE,
Probate Clerk.

EXHIBIT "N."

Estate of Edwin Hoyt, Jr., in Acc't with Mary Sprague, Guardian.

1866.				
June 25.	To my services as guardian in managing the estate of the said Edwin Hoyt, Jr., including all my individual expenses and disbursements incurred on account of the same from February 9, 1857, to date	$500 00		
	To balance	203,884 52		
		$204,384 52		
			By ¼ of stock account	$204,384 52
				$204,384 52
			By balance	$203,884 52
			By ¼ of $188,333.33, dividend due from A. & W. Sprague March 31, 1865, per report of B. F. Thurston and J. A. Gardner, referees.	

E. & E. Providence, June 25th, 1866.

MARY SPRAGUE, *Guardian.*

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the account of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., a minor, which was presented to this court for allowance on Monday, July 9th, A. D. 1866, then received and referred to this time for consideration, with an order of notice thereon, it appearing that notice has been given according to law, as ordered by the court, and that the said guardian had made oath to the truth thereof, and the court having examined the same and no person objecting, the court decreed that said account be received, allowed, and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, then personally appeared Mary Sprague, guardian, and made oath that the above account by her rendered is true and just.

Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. R. S. for 5c.]

Recorded Aug. 20, 1866.

PROBATE CLERK'S OFFICE,
WARWICK, R. I., *M'ch* 17, 1875.

A full and true copy, as will fully appear on referring to pages 288 and 289 of Book 14 of the Record of "Wills," in this office.

Attest: SAM. W. CLARKE,
Probate Clerk.

Fees:

4 F., at 15c.	60
Certificate	50
	$1 10

83 EXHIBIT "O."

This indenture, made and entered into this first day of November, A. D. eighteen hundred and seventy-three, by and between the A. & W. Sprague Manufacturing Company, a corporation created by the General Assembly of the State of Rhode Island, and transacting business in the city of Providence; William Sprague, of South Kingston; Amasa Sprague, of Cranston; Mary Sprague, widow of William Sprague, deceased; Fanny Sprague, widow of Amasa Sprague, deceased, of said Providence, all in said State, and the said Amasa Sprague and William Sprague as copartners, doing business under the firm of A. & W. Sprague, as parties of the first part, and Zachariah Chaffe, of said Providence, of the second part, witnesseth:

Whereas the said A. & W. Sprague Manufacturing Company and

the said A. & W. Sprague and said Amasa Sprague and William Sprague, individually, are now indebted or under liability, primary or secondary, in divers sums of money to divers persons, amounting in the aggregate to about the sum of fourteen millions of dollars, and which indebtedness and liabilities said parties of the first part are desirous of funding and securing by the conveyance of their estates and properties to said party of the second part as mortgagee in trust, as hereinafter provided, and which conveyance to him, as mortgagee in trust, said party of the second part has agreed to, and by signing these presents does accept;

And whereas, for this purpose and to this end, said A. & W. Sprague Manufacturing Company have executed their sixteen thousand five hundred negotiable promissory notes, all bearing even date with these presents, and made payable to the order of said A. & W. Sprague, and by them endorsed, payable three years from January 1, 1874, with interest from January 1, 1874, payable semi-annually, at the rate of seven and three-tenths per centum
84 per annum till said principal sum is paid, whether at or after maturity, and all installments of interest in arrear to bear interest at the rate aforesaid till paid, but reserving the right to pay said notes before maturity in installments of not less than five per centum of the principal thereof at any time the semi-annual interest becomes payable, principal and interest, payable at the place of business of said A. & W. Sprague Manufacturing Company, in said Providence, said notes being of the amounts and lettered and numbered as follows, to wit: Two thousand thereof for fifty dollars each, lettered A No. 1 to A No. 2000, both inclusive; three thousand thereof for one hundred dollars each, lettered B No. 1 to B No. 3000, both inclusive; three thousand thereof for two hundred dollars each, lettered C No. 1 to C No. 3000, both inclusive; three thousand thereof for five hundred dollars each, lettered D No. 1 to D No. 3000, both inclusive; four thousand thereof for one thousand dollars each, lettered E No. 1 to E No. 4000, both inclusive; and fifteen hundred thereof for five thousand dollars each, lettered F No. 1 to F No. 1500, both inclusive; and all of which notes have been placed in the hands of said party of the second part to be by him used and applied to the payment or retiring of such of the present outstanding indebtedness and liabilities aforesaid as the holders thereof shall, within nine months from the date of these presents, bring in and surrender and discharge, or agree to extend for the term and according to the provisions of said notes; said notes, as so issued by said trustee, to be countersigned by him;

And whereas the preservation of the manufacturing properties of said A. & W. Sprague Manufacturing Company and the best interests of the creditors require, to prevent great loss and shrinkage, that the business of the mills and print works shall in the meantime be continued:

Now, therefore, said parties of the first part, in consideration of the premises and of the trusts hereinafter declared, and in further consideration of one dollar to them paid by said party
85 of the second part, the receipt of which is hereby acknowl-

edged, do hereby give, grant, bargain, sell, and convey unto the said party of the second part, his heirs, executors, administrators, and assigns, all the property, real, personal, and mixed, not exempt from attachment by law, which the parties of the first part, or any or either of them, have and hold in the following city and towns in the State of Rhode Island, viz., the city of Providence, the towns of Cranston, Johnston, Coventry, East Greenwich, West Greenwich, South Kingston, Warwick, Pawtucket, Lincoln, North Providence, Cumberland, East Providence, and North Kingston; in the following towns of the Commonwealth of Massachusetts, viz., Attleborough and Palmer; in the following counties of the State of Maine, viz., Somerset, Piscataquis, Franklin, Kennebec, Penobscot, and Aroostook; in the following counties of the State of New Hampshire, viz., Grafton, Coos, Carroll and Belknap; in the towns of Richmond and Lexington, in the State of South Carolina; in the city of Washington, in the District of Columbia; in the following towns of the State of Connecticut, viz., Sterling, Sprague, Scotland, and Windham, including, in what is known as the Baltic mill property, in said State of Connecticut, 4 iron water wheels, 4 rotary pumps, 3 openers, 20 lappers, 412 cards, 19 double heads, 6 doublers, 5 grinders, 19 railway heads and troughs, 30 drawing frames, 25 coarse speeders, 49 fine speeders, 275 spinning frames, 34 spoolers, 16 slasher warpers, 4 slashers, 20 warpers, 12 dressers, 36 pairs mules, 1,973 looms, 1 boring machine, 1 upright drill, 2 iron planers, 8 turning engines, 1 circular saw, 1 vertical saw, 1 wood planer, 1 gear cutter, 2 bolt cutters, 1 run of grist mill stones, 1 bolter for grist mill, 1 corn cracker, 1 steam fire engine, 3 gas retorts, and all the taps, dies, and tools appertaining to the machine and blacksmith's shops; and including, in what is known as the Oneco property, in said State of Connecticut, 250 stone hammers, 750
86 drills, and the tools and apparatus used in quarrying and cutting stone; and including, in what is known as the South Windham property, the saws and tools in the saw-mill; and including the hay in barns and elsewhere in either of said towns of the State of Connecticut; and including, generally, within the foregoing description, the two homestead estates, the Washington and Cove street lot, the Dyer street lot, the Dorrance street lot, the Pine and Page street lot, the Peace street lot, the Marine railway property, the lot on the corner of Hope and Waterman streets, the Fenner avenue lot, the Martin street property, the George, Pitman, and Ives street property, the Elmwood Store property, and the Ninth ward property, in the city of Providence; the Cranston Print Works property, with about eighteen hundred and seventy acres of land and improvements thereon, in the town of Cranston; the Natick Mills property, with about eight hundred and thirty acres of land and improvements thereon, and the Ladd farm, with about one hundred and one acres of land and improvements thereon, sometimes called the Coweset estate, in the town of Warwick; the Morgan Mill property, with about six hundred and twenty-five acres of land and improvements thereon, in the town of Johnston; the homestead estate in South Kingston, with about four hundred and

twenty-eight acres of land and improvements thereon; the Mill property in Augusta, Maine, with about four hundred acres of land and improvements thereon; the Mill property in Palmer, Massachusetts, with about seven acres of land and improvements thereon; the estates in the city of Washington, with about six acres of land and improvements thereon; the property in the city of Columbia, in the State of South Carolina, with about four hundred acres of land and improvements thereon; and also all other the estate and property, real and personal, of every name and nature, not exempt from attachment by law, wherever situate, and by whatsoever muniments of title evidenced, which any or either of the parties of the first part have, or may be entitled to, in possession or
87 action, reversion, or remainder, together, also, with all goods, stock, and supplies, manufactured, unmanufactured, and in process of manufacture, and all fixtures, machinery, tools, and other personal property of every kind, which said A. & W. Sprague Manufacturing Company may, at any time, or from time to time hereafter, have, either in lieu of or in addition to those now on hand, but excepting from this conveyance all shares of capital stock in any and every corporation, wherever located, belonging to any or either of the parties of the first part, the same to be transferred to said party of the second part upon his request in writing, by way of pledge and collateral security, to secure the performance of the conditions of this instrument.

To have and to hold said granted and bargained premises, with all the rights, privileges, and appurtenances thereof, unto and to the use of him, the said party of the second part, his heirs, executors, administrators, and assigns, in trust for the intents and purposes, and with, under, and subject to the powers and provisions hereafter contained, but subject, nevertheless, to the following condition—that is to say:

Upon condition that if said parties of the first part, or any or either of them, their heirs, executors, administrators, or assigns, or any person for them or in their behalf, shall well and truly pay or cause to be paid all and singular the debts and liabilities aforesaid which shall be brought in under these presents and remain outstanding, as hereinbefore provided, and all expenses and liabilities of every kind incurred in the execution of the trusts hereinafter created or declared, and all the notes aforesaid that shall be issued by the trustee aforesaid, together with the interest thereon, according to the tenor thereof, then this deed shall be and become void; otherwise shall remain in force.

And subject to the condition aforesaid, in trust for said party of the second part, and other the trustees or trustee under these
88 presents for the time being, to stand seized and possessed of said granted estates and premises, and until default shall be made in the performance of the conditions aforesaid, or any part thereof, or breach shall be made of any of the covenants or agreements hereinafter contained on the part of said parties of the first part to be kept or performed, or until sale under the trusts hereinafter declared, or until entry under the power in that behalf herein-

after contained, to permit and suffer said parties of the first part to retain the possession and use of said granted premises:

Provided, and it shall be lawful for said trustees or trustee for the time being at any time, or from time to time, before such default or breach, and with or without previous entry, in their or his discretion, to sell, at public or private sale, any part or parts of said granted estates and property, and to execute and deliver such deed or deeds as may be necessary or proper to vest in the purchase or purchasers thereof an absolute and indefeasible estate in fee-simple therein, and to stand seized of all the purchase-moneys to arise and received therefrom for the uses and purposes hereinafter declared respecting the same:

And provided further, That said trustees or trustee, for the time being, may at any time, or from time to time before default or breach, as well as after, enter upon said granted estates and property, or any part or parts thereof, and take and assume the full and absolute possession and control of the same, and in their or his discretion to continue to run and operate or to close the mills or print works of said manufacturing company, or any or either of them, as said trustees or trustee, for the time being, shall deem for the best interests of the creditors:

And provided also, and it is hereby further declared, That in case default shall be made in payment of said notes hereby secured, or any or either of them, or of the semi-annual interest due
89 thereon, or breach shall be made of either of the covenants or agreements herein contained on the part of said parties of the first part to be kept and performed, and such default or breach shall continue for the space of sixty days, then in such case the said trustees or trustee hereunder for the time being, in their or his discretion, may, and upon the request in writing of the holders of one-fifth in amount of the notes then issued and outstanding under these presents said trustees or trustee for the time being shall, from time to time thereafter, either before or after entry as aforesaid, sell, either together or in parcels, the estates and property aforesaid, or any part or parts thereof, at public or private sale, as said trustees or trustee shall think best, first giving, in case of any auction sale under this or under any other provision of this instrument, notice thereof by advertisement at least twice a week for four successive weeks in some public newspaper printed in said Providence, and such other notice as they or he may deem advisable, and upon sale thereof to execute and deliver such deed or deeds as may be necessary or proper to vest in the purchaser or purchasers thereof an absolute and indefeasible estate in fee-simple therein.

And it is hereby declared that said trustees or trustee for the time being shall stand seized of all the purchase-moneys to arise and received from sales or otherwise under any of the trusts of these presents to apply and appropriate the same—

First, to the payment of all expenses incident to such sale or sales and of all insurance moneys, taxes, and other charges, if any, paid or incurred by them in respect of said trust estates, together with a reasonable compensation to said trustees or trustee for the time being

for their or his own services and reasonable counsel fees and all other charges and liabilities paid or incurred by them either in carrying on the business or in the execution of any other of the trusts hereby created.

And, secondly, the residue of all moneys received by them under any of the trusts of this instrument, from time to time,
90 to apply and appropriate ratably to the payment of the principal and interest of all the debts and liabilities aforesaid of said parties of the first part which shall be brought in under these presents and remain outstanding as aforesaid, and of all the notes that shall be issued by said trustee and be outstanding under and secured by these presents, and although by their terms the same may not then have matured, accounting to said parties of the first part, respectively, their heirs, executors, administrators, or assigns, for any surplus, if any, that may remain after the full payment thereof.

And it is further declared that no purchaser under any or either of the foregoing trusts shall be under any obligation to inquire into the necessity or regularity of any sale thereunder, nor to see to the application of any of the purchase-moneys thereof, but that the receipt of the trustees or trustee for the time being to such purchaser or purchasers for such purchase-moneys shall be his or their full and effectual acquittance and discharge therefor. And if at any time said trustee, or any trustee to be appointed under these presents, shall be desirous of resigning and of being discharged from the trusts aforesaid it shall be lawful for them or him so to do; and in such case, or in case said trustee, or any trustee to be appointed under these presents, shall die or become incapable of acting in said trusts, it shall be lawful for the surviving or continuing trustees or trustee for the time being by any writing or writings under their or his hands to nominate and appoint, or in case at any time all the trustees for the time being shall resign together, then for the supreme court of the State of Rhode Island sitting in equity, to appoint any person or persons to be a trustee or trustees in the stead and place of him or them so dying, resigning, or becoming incapable of acting as aforesaid, and thereupon and as often as any such appointment shall be made all the trust estates and property then held under the trusts aforesaid shall, with all convenient speed, be so conveyed, assigned,
91 and transferred as to vest the same in the surviving or continuing trustees or trustee, and such new trustees or trustee, or, if there be no continuing trustee, then in such new trustees or trustee only, their or his heirs, executors, administrators, and assigns, to the same uses and upon the same trusts as are herein declared concerning the same. And every new trustee under these presents so appointed, or otherwise duly appointed by any court of competent jurisdiction, may immediately exercise any power or discretion herein granted in the same manner as though originally named as trustee herein, and although the trust estate be not then vested in him. And no trustee under these presents shall be answerable or accountable for any loss which may happen to said trust

estate or property unless the same shall happen by his own neglect or default.

And the said parties of the first part, for themselves and for their respective heirs, executors, administrators, and assigns, do hereby covenant with the said party of the second part, his heirs, executors, administrators, and assigns, at any time, or from time to time, during the continuance of this security to execute and deliver to the party of the second part, or other the trustees or trustee under these presents for the time being, or to any purchaser under any of the foregoing trusts, such further conveyances or assurances of the estates or property hereby conveyed, or intended to be conveyed, or any part or parts thereof, as said trustees or trustee for the time being may reasonably require, and at all times during the continuance of this security, at their own cost and charges, to keep and maintain insurance for the benefit of said party of the second part under these presents upon the mills, buildings, machinery, and other insurable property hereby conveyed, or intended to be conveyed, in such reasonable amounts, and in such insurance companies, as said trustees or trustee for the time being shall approve; also that the profits that shall hereafter accrue in the business of said manufacturing
92 company shall from time to time be by said company paid over to said trustees or trustee for the time being, to be held and applied to any of the purposes aforesaid, in the same manner as the other trust moneys under these presents; also to pay all taxes and assessments, rates, and charges of every nature that may be laid or levied upon or in respect of said granted premises, and in default thereof it shall be lawful for said trustees or trustee for the time being to effect such insurance, and to pay said taxes, assessments, rates, and charges, and all sums paid therefor shall be a further lien upon said granted premises secured by these presents.

In testimony whereof said A. & W. Sprague Manufacturing Company have caused these presents to be signed, and its corporate seal to be hereto affixed by said Amasa Sprague, its treasurer, for this purpose fully authorized, and said other parties of the first and second parts have hereunto set their hands and seals this said first day of November, A. D. eighteen hundred and seventy-three.

A. & W. SPRAGUE M'F'G CO.,
By AMASA SPRAGUE, *Treas.* [L. S.]
WILLIAM SPRAGUE. [L. S.]
AMASA SPRAGUE. [L. S.]
MARY SPRAGUE. [L. S.]
FANNY SPRAGUE. [L. S.]
A. & W. SPRAGUE. [L. S.]
ZECHARIAH CHAFEE. [L. S.]

Signed, sealed, and delivered in presence of—
THOS. A. DOYLE.
F. W. LATHAM.
GEORGE HARRIS.

93 THE STATE OF RHODE ISLAND, &c., } ss:
City and County of Providence, }

Be it known that in said city of Providence, on this first day of December, A. D. 1873, before me, Henry Martin, a justice of the peace for the said city of Providence, a notary public for said State of Rhode Island, and a commissioner for the State of New York, residing in said city of Providence, personally appeared Amasa Sprague, Fanny Sprague, and Mary Sprague, who are personally known to me to be the same persons described in and who signed, sealed, and executed the foregoing instrument, and they then and there severally acknowledged to me that they signed, sealed, executed, and delivered the said instrument as, and that the same is, their free and voluntary act and deed, for the uses and purposes therein mentioned and expressed; and at the same time and place the said Amasa Sprague, also personally known to me to be the same person who executed the foregoing instrument, as treasurer, in his capacity as treasurer of the A. & W. Sprague Manufacturing Company, also acknowledged to me that he signed, sealed, executed, and delivered the said instrument as, and that the same is, his free and voluntary act and deed as such treasurer, and the free and voluntary act and deed of the said A. & W. Sprague Manufacturing Company, for the use and purposes therein mentioned and expressed.

In testimony whereof I have hereunto set my hand and official seal, at said city of Providence, on this said first day of December, A. D. 1873.

HENRY MARTIN, [L. S.]
Justice of the Peace, Notary Public, and Commissioner for the State of New York.

Recorded December 2, 1873, at 3.57 a. m.
Witness:
G. G. WILLIAMSON,
Recorder of Deeds.

94 THE STATE OF RHODE ISLAND, &c., } ss:
City and County of Providence, }

Be it known that in the city of Providence, on this eighth day of December, A. D. 1873, before me, Henry Martin, a justice of the peace for the said city of Providence, a notary public for said State of Rhode Island, and a commissioner for the State of New York, residing in said city of Providence, personally appeared William Sprague, to me personally known, and he then and there acknowledged to me that he signed, sealed, and executed and delivered the foregoing instrument as his free and voluntary act and deed.

In testimony whereof I have hereunto set my hand and seal, at said city of Providence, on this said eighth day of December, A. D. 1873.

HENRY MARTIN, [L. S.]
Justice of the Peace, Notary Public, and Commissioner for the State of New York.

Acknowledgment. Recorded December 8th, 1873.
Witness:
G. G. WILLIAMSON,
Recorder of Deeds.

95 EXHIBIT "P."

This indenture, made this sixth day of April, A. D. eighteen hundred and seventy-four, by and between Amasa Sprague, of Cranston, county of Providence and State of Rhode Island, and William Sprague, of South Kingston, county of Washington and State of Rhode Island, copartners as A. & W. Sprague, of the first part, and Zechariah Chafee, of the city of Providence, State of Rhode Island, of the second part, witnesseth:

Whereas the said A. & W. Sprague are now indebted or under liability, primary or secondary, in divers sums of money to divers persons, and desirous of appropriating their estate and effects to and for the payment of the same:

Now this indenture witnesseth that the said A. & W. Sprague, for and in consideration of the said debts and liabilities, and also in consideration of the sum of one dollar to them paid by the said Zechariah Chafee, the receipt whereof is hereby acknowledged, by these presents doth grant, assign, bargain, sell, alien, release, and confirm unto the said Zechariah Chafee, his heirs, executors, administrators, and assigns, all their right, title, and interest, legal or equitable, in or to all the property of the grantors described or referred to in the trust deed of mortgage dated on the first day of November, A. D. 1873, made by the grantors and others to the grantee, and in or to any and all estates, real, personal, or mixed, of every name and nature, wherever situate, not exempt from attachment by law.

To have and to hold the same, with all the privileges and appurtenances thereof, unto him, the said Zechariah Chafee, his heirs, executors, administrators, and assigns, in trust, to sell the same at public or private sale, and convert the same into money, and the proceeds thereof to apply—

First. To the payment in full, if sufficient, otherwise rat-
96 ably, of all the claims of creditors against us (A. & W. Sprague), which have or shall within nine months from the first day of November, A. D. 1873, be brought in and extended for the term of time provided in said trust mortgage, with authority in said trustee to make earlier payments than in three years' time of a part or the whole of the same, under the provisions of the said deed of mortgage dated November 1, 1873, or of this or any other preceding instrument.

Secondly. The residue of said proceeds to apply in full, if sufficient, otherwise ratably, to the payment of all our other creditors.

And said trustee is hereby authorized and empowered, and it shall be his duty, to act faithfully for the interest of the creditors, and so as to obtain as prompt a settlement of their claims as practicable; and for that purpose he shall sell or dispose of any and all portions

of the property conveyed to him, or under this or any preceding trust, from time to time, as soon as reasonably may be, consulting the best interest of the creditors in making such sales and disposition, to the end that he may pay and discharge in full, if the property be sufficient, otherwise *pro rata*, the obligations to our creditors within a reasonable time; and the said trustee is further authorized to run said mills and print works, or either or any of them, or to allow the grantor to run the same or any part thereof, if for the best interest of the creditors, the profits of the same being receivable by the aforesaid grantee for the purposes aforesaid; and in case the same are thus run by him, or otherwise, he shall not be liable personally for the expenses or losses arising therefrom, but the same shall be chargeable to the trust fund vested in him.

And the said party of the second part doth hereby accept said trust, and doth, in consideration thereof, covevant that he will faithfully execute said trust on behalf of the creditors herein pro-
97 vided for, so as to secure to them as early and full a payment upon their said claims as he shall reasonably be able to do.

In testimony whereof we have hereunto set our hands and seals this sixth day of April, one thousand eight hundred and seventy-four.

AMASA SPRAGUE. [L. S.]
WILLIAM SPRAGUE. [L. S.]
ZECHARIAH CHAFEE. [L. S.]

Signed, sealed, and delivered in presence of—
CHARLES SELDEN.

THE STATE OF RHODE ISLAND, &c., } ss:
County of Providence, }

In Providence this sixth day of April, A. D. 1874, then Amasa Sprague, William Sprague, and Zechariah Chafee personally appeared and severally acknowledged the foregoing instrument by them signed to be their free and voluntary act and deed.

Before me—

CHARLES SELDEN,
Notary Public.

(Recorded in the land records of the city of Providence, May 8, 1874, at 9.30 a. m., in deed book No. 248, page 313).

98 EXHIBIT "Q."

This indenture, made this sixth day of April, A. D. eighteen hundred and seventy-four, by and between the A. & W. Sprague Manufacturing Company, a corporation created by the General Assembly of the State of Rhode Island and transacting business in the city of Providence, of the first part, and Zechariah Chafee, of said Providence, of the second part, witnesseth:

Whereas the said A. & W. Sprague Manufacturing Company is now indebted or under liability, primary or secondary, in divers

sums of money to divers persons, and is desirous of appropriating its estate and effects to and for the payment of the same:

Now this indenture witnesseth that the said A. & W. Sprague Manufacturing Company, for and in consideration of the said debts and liabilities, and also in consideration of the sum of one dollar to it paid by the said Zechariah Chafee, the receipt whereof is hereby acknowledged, by these presents doth grant, assign, bargain, sell, alien, release, and confirm unto the said Zechariah Chafee, his heirs, executors, administrators, and assigns, all our right, title, and interest, legal or equitable, in or to all the property of the grantors, described or referred to in the trust deed of mortgage dated on the first day of November, A. D. 1873, made by the grantor and others to the grantee, and in or to any and all estate, real, personal, or mixed, of every name and nature, wherever situate, not exempt from attachment by law.

To have and to hold the same, with all the privileges and appurtenances thereof, unto him, the said Zechariah Chafee, his heirs, executors, administrators, and assigns, in trust, to sell the same at public or private sale, and convert the same into money, and the proceeds thereof to apply—

99 First. To the payment in full, if sufficient, otherwise ratably, of all the claims of creditors against us, the A. & W. Sprague Manufacturing Company, which have been, or shall, within nine months from the first day of November, A. D. 1873, be brought in and extended for the term of time provided in said trust mortgage, with authority in said trustee to make earlier payments than in three years' time of a part or the whole of the same under the provisions of said deed of mortgage, dated November 1, 1873, or of this or any other preceding instrument.

Secondly. The residue of said proceeds to apply in full, if sufficient, otherwise ratably, to the payment of all our other creditors.

And said trustee is hereby authorized and empowered, and it shall be his duty, to act faithfully for the interests of the creditors, and so as to obtain as prompt a settlement of their claims as practicable, and for that purpose he shall sell or dispose of any and all portions of the property conveyed to him by or under this or any preceding trust, from time to time, as soon as reasonably may be, consulting the best interest of the creditors in making such sales and disposition, to the end that he may pay and discharge in full, if the property be sufficient, otherwise ratably, the obligations to our creditors within a reasonable time. And the said trustee is further authorized to run said mills and print-works, or either or any of them, or to allow the grantor to run the same or any part thereof, if for the best interest of the creditors, the profits of the same being receivable by the aforesaid grantee for the purposes aforesaid; and in case the same are thus run by him or otherwise he shall not be liable personally for the expenses or losses arising therefrom, but the same shall be chargeable to the trust fund vested in him.

And the said party of the second part doth hereby accept
100 said trust, and doth, in consideration thereof, covenant that he will faithfully execute said trust, on behalf of the cred-

itors herein provided for, so as to secure to them as early and full a payment upon their said claims as he shall reasonably be able to do.

In testimony whereof said A. & W. Sprague Manufacturing Company has caused these presents to be signed and its corporate seal to be hereto affixed by Amasa Sprague, its treasurer, for this purpose fully authorized, and said Zechariah Chafee has hereto set his hand and seal this sixth day of April, eighteen hundred and seventy-four.

A. & W. SPRAGUE M'F'G CO.,
Per AMASA SPRAGUE, *Tr.* [L. S.]
ZECHARIAH CHAFEE. [L. S.]

Signed, sealed, and delivered in presence of—
CHARLES SELDEN.

STATE OF RHODE ISLAND, &c., } *ss:*
City and County of Providence, }

Be it known that in said city of Providence, this seventh day of April, A. D. 1874, before me, Charles Selden, a justice of the peace for the said city of Providence and a notary public for said State of Rhode Island, residing in said city of Providence, personally appeared Amasa Sprague, personally known to me to be the same person who executed the aforegoing instrument as treasurer, and, in his capacity as treasurer, acknowledged to me that he signed, sealed, executed, and delivered this said instrument as, and that the same is, his free and voluntary act and deed as such treasurer, and
101 the free and voluntary act and deed of the said A. & W. Sprague Manufacturing Company, for the uses and purposes therein mentioned and expressed.

In testimony whereof I have hereunto set my hand and official seal, at said city of Providence, on this said seventh day of April, A. D. 1874.

[L. S.] CHARLES SELDEN,
Justice of the Peace and Notary Public.

(Recorded in the land recorder of the city of Providence April 8, 1874, at 9.40 a. m., in Deed Book No. 244, p. 194.)

102 RHODE ISLAND DISTRICT, *sc:*

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends, } No. —.
vs.
AMASA SPRAGUE *et als.* }

The answer of Amasa Sprague, one of the defendants, to the above-entitled bill of complaint.

This defendant, saving and reserving unto himself all benefit and advantage of exception to the many errors, inconsistencies, and in-

sufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as he is advised is material and necessary for him to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised, so far as the same are material to this case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that the said Edwin Hoyt is now, or that he has been during his whole life, or during any part of his life, a person of unsound mind, incapable of transacting business or attending to or managing his affairs. On the con-
103 trary, this defendant avers that the said Edwin Hoyt has, since attaining the age of twenty-one years and previous to said finding of said commission in lunacy, been conversant with his own business affairs, and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument, dated the ninth day of December, A. D. 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration, transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of stock of the Quidnick Company hereinafter mentioned, as by a copy of said deed or instrument hereunto annexed, marked Exhibit 1 and made a part of this answer, will fully appear; and that by his certain power of attorney, dated the ninth day of December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, hereinafter mentioned, his attorney for certain purposes, as will fully appear by the copy of said power of attorney hereto annexed, marked Exhibit 2 and made a part of this answer.

This defendant admits all the matters and things set forth from the ninth to the twenty-sixth folios of said bill to be substantially correct, but where matters stated are matters of record he craves leave, for greater certainty, to refer to the record thereof when produced.

And this defendant denies that after the death of William Sprague, the elder, as charged in said bill, he had the purpose of managing the business, which was under the control of A. & W. Sprague, for his own illegal gain and profit, or that he agreed and combined with his partners to keep all the property and assets under the control of the firm, nor did he seek to prevent any accounting or
104 liquidation in respect to the interests of the deceased Amasa and William.

He denies that he induced or persuaded Fanny Sprague, the administratrix of Amasa Sprague, to remain wholly passive, or that he induced and persuaded Mary Sprague, the administratrix of William Sprague, to be and continue entirely passive as to any right or interest which she had in any representative capacity, or to leave the

whole property and assets, and the management and control thereof, and of the business, entirely in the hands of himself and of his partners, and at his and their will, and that the said Mary Sprague did, and ommitted to do, such things as he and his partners desired her, in her capacity as administratrix and guardian, to do or not to do.

This defendant admits that the General Assembly of the State of Rhode Island, in May, 1862, granted charters for the A. & W. Sprague Manufacturing Company and for the Quidnick Company respectively, and that said companies were organized under said charters in the year 1865.

As to the matters set forth in folios 35 and 36, this defendant admits that he, in connection with William Sprague, purchased the interest of Almira Sprague in the property held by A. & W. Sprague, and also afterwards, in the year 1862, purchased the interest of Byron Sprague in said firm property, but he denies that the same was purchased with copartnership property, or paid for out of the property held by the surviving partners of William Sprague.

And as to the matters set forth in folios 38 and 39 of said bill, this defendant admits that the said purchase of the interest of Byron Sprague was made without the knowledge of said Mary Sprague, and that she did thereafterwards acquiesce in said transaction; but this defendant denies that by means of said purchase over $600,000 in cash or cash assets, or any other sum, had been withdrawn from the assets in the possession of Amasa and William Sprague as
105 survivors, etc., or that there was anything in said transaction which tended in the least degree to prejudice the interests of the wards of said Mary Sprague in and to said property.

This defendant admits, in reference to the matter stated in folio 40, that from the time of the death of William Sprague, the elder, in 1856, to the time when Byron's interest was purchased, in 1862, the business of the firm was carried on under the firm name of A. & W. Sprague.

And as to the matter set forth in paragraph "tenth," folios 41 and 42, this defendant admits that the children of Susan S. Hoyt, deceased, as descendants and next of kin of William Sprague, deceased, were entitled to their distributive shares, as therein set forth.

And this defendant denies that in pursuance of any scheme to prevent the withdrawal of any of the property from their possession, or to prevent any liability to account, as required by law, to the legal representatives of Amasa and William, a petition was made to the General Assembly, as set forth in paragraph "eleventh," at folios 43 to 47 of said bill. Such a petition was prepared and presented to the General Assembly, as in said bill stated, under the following circumstances: All the estate of Amasa Sprague, deceased, and all the estate of William Sprague, deceased, was invested in the manufacturing properties, under the management and control of A. & W. Sprague. The said Mary Sprague, as guardian of the children of Susan Hoyt, deceased, desired to ascertain the value of the property to which, as such guardian, she was entitled, and was also desirous of ascertaining the value and extent of her own individual interest in said property. To accomplish this, and incidentally ascertain

what was the value and extent of the interest of every party in said property, it was amicably agreed that the whole of the property
106 under the control and management of the firm should be appraised by referees, and that an organization should be had under the charter granted by the General Assembly before mentioned, and that each party in interest should have and receive such proportion of the capital stock of said companies as their respective interest bore to the whole property. Accordingly the said Mary Sprague, with the concurrence and advice of Edwin Hoyt, the father of the complainant, petitioned the General Assembly, as set forth in Complainants' Exhibit A. This defendant had nothing to do with persuading Mary Sprague to this step, and had personally nothing to do with the business; neither did this defendant cause the petition to be presented to the General Assembly, nor did he have anything to do with procuring the prayer of the petition to be granted, in any improper sense, as is insinuated by said bill of complaint.

And this defendant admits that the agreement marked "C," annexed to the complainants' bill, was duly executed; the same was not caused to be prepared by this defendant, but it was made at the instance, mainly, of the said Mary Sprague, her son Byron (who had then retired from the firm), and of the father of the complainant. It was a part of the arrangement before mentioned, which had been amicably arrived at by all the parties having any interest in the property, and was deemed, on the whole, to be for the best interest of all concerned, as a means of avoiding controversy, dispute, and litigation, and to enable each party interested in the estate of Amasa and William Sprague, deceased, to have their interest ascertained and the extent of it defined.

This defendant is informed that the said Mary Sprague executed the agreement of her own free will, and that she was perfectly aware of the contents and purpose of the same, and approved it. And this defendant denies that said agreement was contrived and matured for the purpose and with the intent of carrying out any scheme
107 to keep possession and control of all the property and assets in the hands of this defendant and his brother, or of preventing any legal accounting to the representatives of Amasa and William, or with any fraudulent design and purpose whatsoever. The only male representative of Amasa and William Sprague, deceased, who could take charge of the property was the defendant and his brother William. The said Byron had voluntarily sold his interest in the property and estate of his father to this defendant and William Sprague. The said Mary and Fanny Sprague were advanced in years, and the children of Susan Hoyt, deceased, were all minors and under guardianship.

This defendant denies that he resorted to any plan or scheme of the character stated, or for the purpose charged, or that he did any of the things set forth and alleged against him from folios 60 to 63*a* of said bill.

And this defendant denies that upon a true and just accounting he and the said William would have been required to account for

more than $2,000,000, or any other amount of property and assets, which were not brought into the division in said agreement.

He denies that any sum of money or any property or assets properly divisible were withheld from the division, or that he had used and misapplied vast sums or any sums of money derived from the said property and assets, or business carried on by means thereof, for his own personal and private expenses and operations, or that any money was paid to Fanny and Mary Sprague, or used by the said Amasa and William Sprague, for their personal living and expenses, which was not charged on the books of the firm, or that to avoid and get rid of any legal and proper accounting therefor they resorted to the plan and scheme of having an accounting among themselves, or that the property and assets of the firm were depleted or
108 diminished in value or amount by any such use or misapplication of the moneys or profits thereof, as charged in said bill.

This defendant also denies that both of said referees were in confidential relations with him, and were nominated in his interest; on the contrary, the said Thurston was the recognized counsel of Byron Sprague and Mary Sprague, and in his professional capacity had always represented interests adversary to him, and held no professional relation to this defendant whatever.

And this defendant admits that the said referees did make the report which is set forth in Exhibit "D," attached to the bill; but whether said report is erroneous or not, as alleged in the bill, this defendant has no personal knowledge beyond what is stated in the report itself, except that the value of the property and assets, exclusive of the Quidnick Company property, at the close of business on the 31st of March, 1865, did not, in fact, exceed $6,732,906.69, and that the liabilities were, in fact, $2,871,921.79, and that, in fact, a dividend was declared in the lifetime of William Sprague, the elder, on account of which there was due Mary Sprague, as administratrix of his estate, the sum of $164,250.29; but he believed said report to be accurate at the time in every respect, and acted upon it as such, has had no reason to doubt its correctness at any time since, and, to the best of his information and belief, the same is accurate in every particular.

And this defendant denies that, with the purpose and intent charged in said bill, he induced the said Mary Sprague to sign the petition, a copy of which is annexed to said bill, marked "F," and he denies that he had any instrumentality whatever in procuring the petition to be signed. This defendant is informed and believes that the court of probate did pass the order which is marked "G," and he is also informed and believes that the notice and bond, marked "H" and "I," respectively, were made and executed,
109 and also that the said Mary Sprague did, on the ninth day of August, 1865, execute the instrument marked "K."

This defendant denies that he procured the said Mary Sprague to resign her guardianship of said complainant, but he is informed that she resigned her office of her own motion. The court of probate appointed appraisers to ascertain the estate of said complainant, and

such appraisement was duly made, and William Sprague accepted the office of guardian.

This defendant admits that he was a member of the copartnership of Hoyt, Sprague & Co., and that the said copartnership carried on a commission business; and he further admits that in the months of September and October, 1873, the said firm of Hoyt, Sprague & Co., and also the A. & W. Sprague Manufacturing Company, became embarrassed and suspended payment; and this defendant also admits that the said company has duly executed trust deeds of conveyance of all its property to Zechariah Chafee, for the benefit of all its creditors, and said Chafee now is vested with the title thereunder, for the benefit of creditors, of all the property of said corporation; and this defendant avers that the said complainant became of full age on or about the sixteenth day of July, 1870, and has made sale to a *bona fide* purchaser for value of all his stock in said Quidnick Company, and has received
110 the consideration money therefor; and, although at all times having full means of knowledge of all the affairs and business of said corporation, he at no time, until long after the failure of said A. & W. Sprague Manufacturing Company and the execution of said trust deed to said Chafee, made any complaint as to the investment made in his behalf by his said guardian, or set up or asserted any claim for relief against this defendant for any matter or thing whatsoever.

This defendant denies all and every allegation, charge, or insinuation in the said bill of complaint contained, to the effect that he originated, was a party to, or in any manner participated in, or had or entertained any scheme, plan, design, or purpose to obtain the control or management of the said business of the copartnership of A. & W. Sprague, or of the corporations which succeeded said copartnership, for his own benefit and advantage, or with the design to prejudice, injure, or impair the interests or rights of the said complainant, or of any other party who had any interest in said property. The sole object and purpose of this defendant was to roll up and increase the manufacturing properties which had come into the possession of the surviving members of the firm after the decease of William Sprague, senior, for the benefit of all parties interested in the same, according to their respective interests. To this end all his time, skill, energies, and constant care were directed. This defendant, too, was in frequent consultation for many years with Edwin Hoyt, father of said complainant, and the business of the copartnership as well as of the corporation was conducted largely in pursuance of his advice and with his constant approval.

And this defendant, further answering, denies each and all the allegations of studious concealment and misrepresentation of facts on his part concerning any property or rights of the said com-
111 plainant, as averred in said bill of complaint, or any concealment from him, or misrepresentation to him by this defendant whatsoever.

And this defendant denies that he ever used and misapplied any moneys belonging to said complainant, or that the complainant ever

ascertained any such use or misapplication from any published reports of the committee of creditors, as averred in said bill, and avers that no reports or report of the committee of creditors was made or published after the thirtieth day of November, 1873, and that the complainant had seen and examined all that had been made or published prior to that date; that the complainant brought his suit at law against this defendant on the sixth day of December,
112 1873, which was discontinued, and subsequently brought another on the twenty-seventh day of January, 1874, which has been since discontinued, and that said 123 shares of Quidnick Company's stock mentioned in said complainant's said bill stood in the name of said complainant on the books of said Quidnick corporation long before, on and after the sixth day of December, 1873, until he transferred the same on the ninth day of December, 1873.

And this defendant, further answering, says that as to all other matters set forth in said bill this defendant hath no knowledge whatever, and has no information as to the same, save by said bill of complaint, and leaves said complainant to prove the same as he may be advised.

And this defendant answers the several interrogatories propounded to him as follows:

Second. Amasa and William Sprague did purchase from Byron Sprague his interest in the property and assets of A. & W. Sprague, and paid him the sum of $605,722.78 therefor.

Third. Amasa and William did purchase the interest of Almira Sprague, and paid her the sum of $91,000 therefor.

Fifth. Agreement marked "Exhibit C" was made and executed.

Sixth. No accounting or appraisal was had either of the estate of Amasa Sprague or William Sprague, deceased, prior to the making of the agreement marked "Exhibit C."

Seventh. This defendant has no means of answering this interrogatory. No inventory was taken either at the death of Amasa Sprague, the elder, or William Sprague, the elder, but all the property and estate as it was at said times, with all its accretions, remained after the death of each, respectively, in the hands of the surviving partner, and all the same, with such accretions, was transferred to the corporation in 1865, which succeeded to the business of said firm.

113 Eighth. This defendant has no adequate means of answering this interrogatory for the reason that the books of the firm were always kept until the first day of January, 1863, on the principle of single-entry book-keeping, and in the manner they were kept it would be impossible to show to what, in many instances, the expenditures applied. An approximate ascertainment of the matter sought would involve months of continuous labor by an expert book-keeper, and a degree of expense which this defendant is unable to bear, and submits that he is not bound to incur.

Ninth. There was entered on the journal of A. & W. Sprague, under date of Dec. 31, 1863, the sum of $534,943.34 for commissions from death of the elder William Sprague in 1856 to Nov. 7, 1862.

This amount was never carried to the ledger; was annulled and

disallowed by the parties in interest in the early part of 1864, and never was laid before the referees under the agreement of the 1st of April, 1865.

There was also charged on the books of A. & W. Sprague, from Nov. 7, 1862, to April 1, 1865, the sum of $685,997.72 for commissions against the several firms—A. & W. Sprague, Quidnick Company, and Arcadian Company—of which amount $401,245.12 was charged to the firm of A. & W. Sprague, but one-half of the whole of which sum of $685,997.72, viz., $342,998.86, was, subsequently to the coming in of the referees' report, charged back on the books in equal amounts to the said Amasa and William.

It is impossible to state accurately the amount charged on the business between the 1st of April and 9th of August, 1865, inasmuch as the next entry for commissions was Dec. 31, 1865, covering sales for the whole period from April 1, 1865, to that date, the proportional part of which, as nearly as can now be approximated, down to August 9, 1865, was about $50,000.

114 Tenth. There was allowed and credited to Amasa and William Sprague during the period above specified, from Nov. 7, 1862, to April 1, 1865, the sum of $58,246.26 for commissions.

There was charged to Fanny Sprague from October, 1856, to August 9, 1865, in personal accounts, $168,901.39. This amount included expenses charged to Fanny Sprague for herself, Amasa, William, and Almira, in common with her own, from October, 1856, to July 1, 1863, as per agreement.

There was charged to Mary Sprague, in personal accounts, from October, 1856, to Aug. 9, 1865, the sum of $146,988.35, which included, in common with her own, the expenses of Byron from October, 1856, to Nov. 7, 1862.

There was charged to William Sprague, in personal accounts, from Jan. 1, 1863, to Aug. 9, 1865, $152,257.37; to Amasa Sprague, in personal account, for the same period, $83,863.67.

Eleventh. No sums of money were drawn out during the period inquired of for any special investments, adventures, or operations of this defendant, and not charged in the personal account of this defendant hereinbefore given. All sums drawn out or employed for any special investments, adventures, or operations of this defendant, and not charged to him, as above stated, in his personal account, were investments and adventures made for and on account of the business of the firm, in which all parties were interested.

On the first day of January, 1859, there was contributed by A. & W. Sprague, as capital to the firm of Hoyt, Sprague & Co., $100,000.

Fourteenth. A dividend was declared of the profits of the business of A. & W. Sprague, in the lifetime of William Sprague, of the sum of $189,395.18.

Fifteenth. The bond marked Exhibit "I" was executed by the obligors therein named.

115 Eighteenth. This defendant is informed and believes that William Sprague has not filed any account as guardian.

Nineteenth. The several deeds of trust referred to in this interrogatory were executed.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by said bill charged, without this, that there is any other matter, cause, or thing in said complainants' said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

AMASA SPRAGUE.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJAMIN F. THURSTON,
Counsel for Defendant.

116 UNITED STATES OF AMERICA, }
Rhode Island District, Providence, } ss:

In the city of Providence, this sixth day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, personally appeared Amasa Sprague, subcriber to the aforegoing answer, and made oath that the statements made therein, as of his own knowledge, are true, and those made therein as of his information and belief he verily believes to be true.

Witness my hand and seal at said Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

117 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island, and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company:

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators and assigns, forever.

In testimony whereof I have hereunto set my hand and seal this

ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally
118 appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

119 EXHIBIT 2.

Know all men by these presents that, for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt true and lawful attorney (with power of substitution) for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company. And my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgments of deeds, &c., personally appeared the within-named Edwin Hoyt, Junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

120 RHODE ISLAND DISTRICT, *sc.*:

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends,
vs.
AMASA SPRAGUE *et als.*
} No. —.

The answer of William Sprague, one of the defendants, to the above-entitled bill of complaint.

This defendant, saving and reserving unto himself all benefit and advantage of exception to the many errors, inconsistencies, and insufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as he is advised is material and necessary for him to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed, save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised, so far as the same are material to this case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that the said Edwin Hoyt is now, or that he has been during his whole life, or during any part of his life, a person of unsound mind, incapable of transacting business, or attending to or managing his affairs. On the contrary,

121 this defendant avers that the said Edwin Hoyt has, since attaining the age of twenty-one years, and previous to said finding of said commission in lunacy, been conversant with his own business affairs, and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument, dated the ninth day of December, A. D. 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of stock of the Quidnick Company, hereinafter mentioned, as by a copy of said deed or instrument, hereto annexed, marked Exhibit 1, and made a part of this answer, will fully appear; and that, by his certain power of attorney, dated the ninth day of December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, hereinafter mentioned, his attorney, for certain purposes, as will fully appear by the copy

of said power of attorney, hereto annexed, marked Exhibit 2, and made a part of this answer.

This defendant admits all the matters and things set forth from the ninth to the twenty-sixth folios of said bill to be substantially correct; but where matters stated are matters of record he craves leave, for greater certainty, to refer to the record thereof, when produced.

And this defendant denies that after the death of William Sprague, the elder, as charged in said bill, he had the purpose of managing the business, which was under the control of A. & W. Sprague, for his own illegal gain and profit, or that he agreed and combined with his partners to keep all the property and assets under the control of the firm; nor did he seek to prevent any accounting
122 or liquidation in respect to the interests of the deceased Amasa and William.

He denies that he induced or persuaded Fanny Sprague, the administratrix of Amasa Sprague, to remain wholly passive, or that he induced and persuaded Mary Sprague, the administratrix of William Sprague, to be and continue entirely passive as to any right or interest which she had in any representative capacity, or to leave the whole property and assets and the management and control thereof and of the business entirely in the hands of himself and of his partners, and at his and their will, and that the said Mary Sprague did, and omitted to do, such things as he and his partners desired her, in her capacity as administratrix and guardian, to do or not to do.

This defendant admits that the General Assembly of the State of Rhode Island, in May 1862, granted charters for the A. & W. Sprague Manufacturing Company and for the Quidnick Company, respectively, and that said companies were organized under said charters in the year 1865.

As to the matter set forth in folios 35 and 36, this defendant admits that he, in connection with Amasa Sprague, purchased the interest of Almira Sprague in the property held by A. & W. Sprague, and also afterwards, in the year 1862, purchased the interest of Byron Sprague in said firm property, but he denies that the same was purchased with copartnership property, or paid for out of the property held by the surviving partners of William Sprague.

And as to the matters set forth in folios 38 and 39 of said bill this defendant admits that the said purchase of the interest of Byron Sprague was made without the knowledge of said Mary Sprague, and that she did thereafterwards acquiesce in said transaction; but this defendant denies that by means of said purchase over $600,000 in cash or cash assets, or any other sum, had been withdrawn from the assets in the possession of Amasa and William Sprague
123 as survivors, etc., or that there was anything in said transaction which tended in the least degree to prejudice the interests of the wards of said Mary Sprague in and to said property.

This defendant admits, in reference to the matter stated in folio 40, that from the time of the death of William Sprague, the elder, in 1856, to the time when Byron's interest was purchased, in 1862,

the business of the firm was carried on under the firm name of A. & W. Sprague.

And as to the matter set forth in paragraph "tenth," folios 41 and 42, this defendant admits that the children of Susan S. Hoyt, deceased, as descendants and next of kin of William Sprague, deceased, were entitled to their distributive shares, as therein set forth.

And this defendant denies that in pursuance of any scheme to prevent the withdrawal of any of the property from their possession, or to prevent any liability to account, as required by law, to the legal representatives of Amasa and William, a petition was made to the General Assembly, as set forth in paragraph "eleventh," at folios 43 to 47 of said bill. Such a petition was prepared and presented to the General Assembly, as in said bill stated, under the following circumstances: All the estate of Amasa Sprague, deceased, and all the estate of William Sprague, deceased, was invested in the manufacturing properties, under the management and control of A. & W. Sprague. The said Mary Sprague, as guardian of the children of Susan Hoyt, deceased, desired to ascertain the value of the property to which, as such guardian, she was entitled, and was also desirous of ascertaining the value and extent of her own individual interest in said property. To accomplish this, and incidentally ascertain what was the value and extent of the interest of every party in said property, it was amicably agreed that the whole of the prop-
124 erty under the control and management of the firm should be appraised by referees, and that an organization should be had under the charter granted by the General Assembly before mentioned, and that each party in interest should have and receive such proportion of the capital stock of said companies as their respective interest bore to the whole property. Accordingly the said Mary Sprague, with the concurrence and advice of Edwin Hoyt, the father of the complainant, petitioned the General Assembly, as set forth in Complainants' Exhibit A. This defendant had nothing to do with persuading Mary Sprague to this step, and had personally nothing to do with the business; neither did this defendant cause the petition to be presented to the General Assembly, nor did he have anything to do with procuring the prayer of the petition to be granted, in any improper sense, as is insinuated by said bill of complaint.

And this defendant admits that the agreement marked "C," annexed to the complainants' bill, was duly executed. The same was not caused to be prepared by this defendant, but it was made at the instance, mainly, of the said Mary Sprague, her son Byron (who had then retired from the firm), and of the father of the complainant. It was a part of the arrangement before mentioned, which has been amicably arrived at by all the parties having any interest in the property, and was deemed on the whole to be for the best interest of all concerned as a means of avoiding controversy, dispute, and litigation, and to enable each party interested in the estate of Amasa and William Sprague, deceased, to have their interest ascertained and the extent of it defined.

This defendant is informed that the said Mary Sprague executed the agreement of her own free will, and that she was perfectly aware

of the contents and purpose of the same and approved it. And this defendant denies that said agreement was contrived and matured for the purpose and with the intent of carrying out any scheme
125 to keep possession and control of all the property and assets in the hands of this defendant and his brother, or of preventing any legal accounting to the representatives of Amasa and William, or with any fraudulent design and purpose whatsoever. The only male representative of Amasa and William Sprague, deceased, who could take charge of the property was the defendant and his brother, Amasa. The said Byron had voluntarily sold his interest in the property and estate of his father to this defendant and Amasa Sprague. The said Mary and Fanny Sprague were advanced in years, and the children of Susan Hoyt, deceased, were all minors and under guardianship.

This defendant denies that he resorted to any plan or scheme of the character stated or for the purpose charged, or that he did any of the things set forth and alleged against him from folios. 60 to 63*a* of said bill.

And this defendant denies that upon a true and just accounting he and the said Amasa would have been required to account for more that $2,000,000, or any other amount of property and assets, which were not brought into the division in said agreement.

He denies that any sum of money or any property or assets properly divisible were withheld from the division, or that he had used and misapplied vast sums or any sums of money derived from the said property and assets, or business carried on by means thereof, for his own personal and private expenses and operations, or that any money was paid to Fanny and Mary Sprague, or used by the said Amasa and William Sprague, for their personal living and expenses, which was not charged on the books of the firm, or that to avoid and get rid of any legal and proper accounting therefor they resorted to the plan and scheme of having an accounting among themselves, or that the property and assets of the firm were depleted or diminished in value or amount by any such
126 use or misapplication of the moneys or profits thereof, as charged in said bill.

This defendant also denies that both of said referees were in confidential relations with him, and were nominated in his interest; on the contrary, the said Thurston was the recognized counsel of Byron Sprague and Mary Sprague, and in his professional capacity had always represented interests adversary to him, and held no professional relation to this defendant whatever.

And this defendant admits that the said referees did make the report which is set forth in Exhibit "D," attached to the bill, but whether said report is erroneous or not, as alleged in the bill, this defendant has no personal knowledge beyond what is stated in the report itself, except that the value of the property and assets, exclusive of the Quidnick Company property, at the close of business on the 31st of March, 1865, did not, in fact, exceed $6,732,906.69, and that the liabilities were, in fact, $2,871,921.79, and that, in fact, a dividend was declared in the lifetime of William Sprague, the

elder, on account of which there was due Mary Sprague, as administratrix of his estate, the sum of $164,250.29, but he believed said report to be accurate at the time in every respect, and acted upon it as such, has had no reason to doubt its correctness at any time since, and, to the best of his information and belief, the same is accurate in every particular.

And this defendant denies that, with the purpose and intent charged in said bill, he induced the said Mary Sprague to sign the petition, a copy of which is annexed to said bill, marked "F," and he denies that he had any instrumentality whatever in procuring the petition to be signed. This defendant is informed and believes that the court of probate did pass the order which is marked "G," and he is also informed and believes that the notice and bond marked "H" and "I," respectively, were made and executed, and
127 also that the said Mary Sprague did, on the ninth day of August, 1865, execute the instrument marked "K."

This defendant denies that he procured the said Mary Sprague to resign her guardianship of said complainant, but he is informed that she resigned her office of her own motion. The court of probate appointed appraisers to ascertain the estate of said complainant, and such appraisement was duly made, and this defendant accepted the office of guardian.

This defendant admits that he was a member of the copartnership of Hoyt, Sprague & Co., and that the said copartnership carried on a commission business; and he further admits that in the months of September and October, 1873, the said firm of Hoyt, Sprague & Co. and also the A. & W. Sprague Manufacturing Company became embarrassed and suspended payment; and this defendant also admits that the said company has duly executed trust deeds of conveyance of all its property to Zechariah Chafee, for the benefit of all its creditors, and said Chafee now is vested with the title thereunder, for the benefit of creditors, of all the property of said corporation; and this defendant avers that the said complainant became of full age on or about the sixteenth day of July, 1870, and has made sale to a *bona fide* purchaser for value of all his
128 stock in said Quidnick Company, and has received the consideration money therefor, and although at all times having full means of knowledge of all the affairs and business of said corporation, he at no time, until long after the failure of said A. & W. Sprague Manufacturing Company and the execution of said trust deed to said Chafee, made any complaint as to the investment made in his behalf by his said guardian, or set up or asserted any claim for relief against this defendant for any matter or thing whatsoever.

This defendant denies all and every allegation, charge, or insinuation in the said bill of complaint contained, to the effect that he originated, was a party to, or in any manner participated in, or had or entertained any scheme, plan, design, or purpose to obtain the control or management of the said business of the copartnership of A. & W. Sprague, or of the corporations which succeeded said copartnership, for his own benefit and advantage, or with the design

to prejudice, injure, or impair the interests or rights of the said complainant, or of any other party who had any interest in said property. The sole object and purpose of this defendant was to roll up and increase the manufacturing properties which had come into the possession of the surviving members of the firm after the decease of William Sprague, senior, for the benefit of all parties interested in the same, according to their respective interests. To this end all his time, skill, energies, and constant care were directed. This defendant, too, was in frequent consultation, for many years, with Edwin Hoyt, father of said complainant, and the business of the copartnership, as well as of the corporation, was conducted largely in pursuance of his advice and with his constant approval.

And this defendant, further answering, denies each and all the allegations of studious concealment and misrepresentation of facts on his part concerning any property or rights of the said
129 complainant, as averred in said bill of complaint, or any concealment from him, or misrepresentation to him, by this defendant whatsoever.

And this defendant denies that he ever used and misapplied any moneys belonging to said complainant, or that the complainant ever ascertained any such use or misapplication from any published reports of the committee of creditors, as averred in said bill, and avers that no reports or report of the committee of creditors was made or published after the thirtieth day of November, 1873, and that the complainant had seen and examined all that had been made or published prior to that date; that the complainant brought his suit at law against this defendant on the sixth day of De-
130 cember, 1873, which was discontinued, and subsequently brought another on the twenty-seventh day of January, 1874, which has been since discontinued, and that said 123 shares of Quidnick Company's stock mentioned in said complainant's said bill stood in the name of said complainant on the books of said Quidnick corporation long before, on and after the sixth day of December, 1873, until he transferred the same on the 9th day of December, 1873.

And this defendant, further answering, says that as to all other matters set forth in said bill this defendant hath no knowledge whatever, and has no information as to the same, save by said bill of complaint, and leaves said complainant to prove the same as he may be advised.

And this defendant answers the several interrogatories propounded to him as follows:

Second. Amasa and William Sprague did purchase from Byron Sprague his interest in the property and assets of A. & W. Sprague, and paid him the sum of $605.722.78 therefor.

Third. Amasa and William did purchase the interest of Almira Sprague, and paid her the sum of $91,000 therefor.

Fifth. Agreement marked "Exhibit C" was made and executed.

Sixth. No accounting or appraisal was had either of the estate of Amasa Sprague or William Sprague, deceased, prior to the making of the agreement marked "Exhibit C."

Seventh. This defendant has no means of answering this interrogatory. No inventory was taken either at the death of Amasa Sprague, the elder, or William Sprague, the elder, but all the property and estate as it was at said time, with all its accretions, remained after the death of each respectively in the hands of the surviving partner, and all the same, with such accretions, was transferred to the corporation, in 1865, which succeeded to the business of said firm.

131 Eighth. This defendant has no adequate means of answering this interrogatory, for the reason that the books of the firm were always kept, until the first day of January, 1863, on the principle of single-entry book-keeping, and in the manner they were kept it would be impossible to show to what in many instances the expenditures applied. An approximate ascertainment of the matter sought would involve months of continuous labor by an expert book-keeper and a degree of expense which this defendant is unable to bear, and submits that he is not bound to incur.

Ninth. There was entered on the journal of A. & W. Sprague under date of Dec. 31, 1863, the sum of $534,943.34 for commissions from death of the elder William Sprague, in 1856, to Nov. 7, 1862.

This amount was never carried to the ledger, was annulled and disallowed by the parties in interest in the early part of 1864, and never was laid before the referees, under the agreement of the 1st of April, 1865.

There was also charged on the books of A. & W. Sprague from Nov. 7, 1862, to April 1, 1865, the sum of $685,997.72 for commissions against the several firms A. & W. Sprague, Quidnick Company, and Arcadian Company, of which amount $401,245.12 was charged to the firm of A. & W. Sprague, but one-half of the whole of which sum of $685,997.72, viz., $342,998.86, was, subsequently to the coming in of the referees' report, charged back on the books in equal amounts to the said Amasa and William.

It is impossible to state accurately the amount charged on the business between the 1st of April and 9th of August, 1865, inasmuch as the next entry for commissions was Dec. 31, 1865, covering sales for the whole period from April 1, 1865, to that date, the proportional part of which, as nearly as can now be approximated, down to August 9, 1865, was about $50,000.

132 Tenth. There was allowed and credited to Amasa and William Sprague, during the period above specified, from Nov. 7, 1862, to April 1, 1865, the sum of $58,246.26 for commissions.

There was charged to Fanny Sprague, from October, 1856, to August 9, 1865, in personal account, $168,901.39. This amount included expenses charged to Fanny Sprague for herself, Amasa, William, and Almira, in common with her own, from October, 1856, to July 1, 1863, as per agreement.

There was charged to Mary Sprague, in personal account, from October, 1856, to Aug. 9, 1865, the sum of $146,988.35, which included, in common with her own, the expenses of Byron from October, 1856, to Nov. 7, 1862.

There was charged to William Sprague, in personal account, from Jan. 1, 1863, to Aug. 9, 1865, $152,257.37; to Amasa Sprague, in personal account, for the same period, $83,863.67.

Eleventh. No sums of money were drawn out during the period inquired of for any special investments, adventures, or operations of this defendant, and not charged in the personal account of this defendant hereinbefore given. All sums drawn out or employed for any special investments, adventures, or operations of this defendant, and not charged to him, as above stated, in his personal account, were investments and adventures made for and on account of the business of the firm, in which all parties were interested.

On the first day of January, 1859, there was contributed by A. & W. Sprague, as capital to the firm of Hoyt, Sprague & Co., $100,000.

Fourteenth. A dividend was declared of the profits of the business of A. & W. Sprague, in the lifetime of William Sprague, of the sum of $189,395.18.

Fifteenth. The bond marked Exhibit "I" was executed by the obligors therein named.

133 Eighteenth. William Sprague has not filed any account as guardian.

Nineteenth. The several deeds of trust referred to in this interrogatory were executed.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by said bill charged, without this, that there is any other matter, cause, or thing in said complainants' said bill of complaint contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

W. SPRAGUE.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

134 UNITED STATES OF AMERICA, }
Rhode Island District, Providence, } *ss:*

In the city of Providence, this fourteenth day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, personally appeared William Sprague, subscriber to the aforegoing answer, and made oath that the statements made therein as of his own knowledge are true, and those made therein as of his information and belief he verily believes to be true.

Witness my hand and seal at said Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

135 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company.

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators, and assigns forever.

In testimony whereof I have hereunto set my hand and seal this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., per-
136 sonally appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

137 EXHIBIT 2.

Know all men by these presents that, for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt — true and lawful attorney (with power of substitution) for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company. And my said attorney is hereby

fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal, 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowldgments of deeds, &c., personally appeared the within-named Edwin Hoyt, junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

138 RHODE ISLAND DISTRICT, *sc.:*

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends,
vs.
AMASA SPRAGUE *et als.* } No. —.

The answer of Mary Sprague, individually and as administratrix of the goods, chattels, and credits which were of William Sprague, deceased, one of the defendants to the above-entitled bill of complaint.

This defendant, saving and reserving unto herself all benefit and advantage of exception to the many errors, inconsistencies, and insufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as she is advised is material and necessary for her to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed, save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised, so far as the same are material to this case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that the said Edwin Hoyt is now, or that he has been during his whole life, or during any part of his life, a person of unsound mind, incapable of transacting
139 business or attending to or managing his affairs; on the contrary, this defendant avers that the said Edwin Hoyt has,

since attaining the age of twenty-one years, and previous to said finding of said commission in lunacy, been conversant with his own business affairs, and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument, dated the ninth day of December, A. D. 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration, transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of stock of the Quidnick Company hereinafter mentioned, as by a copy of said deed or instrument hereunto annexed, marked Exhibit 1, and made a part of this answer, will fully appear; and that by his certain power of attorney, dated the ninth day of December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, hereinafter mentioned, his attorney for certain purposes, as will fully appear by the copy of said power of attorney hereto annexed, marked Exhibit 2, and made a part of this answer.

And this defendant, further answering, admits it to be true that prior to the year 1843 Amasa Sprague and William Sprague, now deceased, were copartners in trade, and were engaged in the business of manufacturing and selling cloths and prints; that the said firm did a successful business, but had not accumulated at the decease of said Amasa an estate of more than $100,000 beyond their liabilities. The said firm were owners of real estate in the State of Rhode Island and elsewhere, and all of this property, real and personal, was held in common and undivided, and the real estate was principally held
140 and employed for the uses of the copartnership. The property of the firm was treated and held as the common property of the copartners; the expenses of the families of each of the partners were paid out of the common property, and all of the accounts of the copartnership were kept on the simple system of single-entry book-keeping. Neither of the partners had any individual property or estate distinct or separate from the other, but their energies were directed to the development of the manufacturing business and the accumulation of the property for the common and equal benefit of themselves and their families respectively, and all their property, of every kind, was copartnership property up to the time of the formation of the corporations hereinafter mentioned. The said Amasa Sprague died intestate in the month of December, 1843, leaving a widow and four children surviving. The said William, husband of this defendant, as surviving partner, carried on the business of said firm, and he did not, as this defendant is informed and believes, liquidate the affairs of the firm and account to the representatives of his deceased brother, Amasa, for the comparatively small sum which would have resulted to them upon the settlement at that date of the business of the copartnership; on the contrary, he believed that it was his duty to consider the interest of his deceased brother's widow and childen as entitled to his protection, and to be increased

by the fruits of his energy and labors, notwithstanding he was deprived of the aid and assistance of his said brother. The said William Sprague continued the business in the original name of A. & W. Sprague, for the equal benefit of himself and the representatives of his deceased brother, from the time of the death of said Amasa in 1843 until his own death, in the month of October, 1856. At the time of his decease the property and estate of said copartnership was very greatly increased, as the result of his labors, skill, and business sagacity.

141 Prior to the decease of the said William Sprague, to wit, in the year 1856, the said William Sprague took into copartnership his own son, Byron Sprague, and Amasa and William Sprague, the two surviving sons of Amasa, deceased.

Susan Sprague, the daughter of the said William Sprague and of this defendant, married Edwin Hoyt, of New York, and died on the 28th of October, 1853, intestate, leaving said complainant and three other children, issue of said marriage, surviving.

The said William Sprague, senior, died intestate on the 19th day of October, 1856, leaving this defendant, his widow, his son Byron, and the children of Susan Hoyt, deceased, his heirs-at-law surviving.

This defendant duly received letters of administration on the estate of said William Sprague on the 8th of December, 1856, from the probate court of the town of Warwick.

On the ninth of February, 1857, this defendant was appointed guardian of the property of said complainant. Immediately after the decease of said William Sprague, senior, and at the time of her appointment as guardian of said complainant, the property of the copartnership of A. & W. Sprague was managed by Byron Sprague, Amasa Sprague, and William Sprague, under the advice and with the assistance of this defendant and Fanny Sprague, mother of the said Amasa and William, in said firm name, for the common benefit of all parties interested therein. The business of the firm was in 1856 and subsequently greatly extended, and in the opinion of all the parties in interest it was deemed unadvisable to wind up its affairs.

Edwin Hoyt, the father of said complainant, was frequently advised with by this defendant, and he urged that the business be conducted for the benefit of all parties in interest, without any liquidation being had of the business of the firm. The copartnership at this time was engaged in a highly prosperous busi-

142 ness, was rapidly increasing its assets, and continued to do so until long after the formation of the corporation hereinafter mentioned.

In the month of May, 1862, with the view of disentangling the interests of the several parties interested in the property held under the management of the firm of A. & W. Sprague, and of assigning to each his or her proper share therein, and for more conveniently and systematically managing such interests and the business, acts of incorporation for the A. & W. Sprague Manufacturing Company and

the Quidnick Company were petitioned for and granted by the General Assembly of the State of Rhode Island.

Soon after the procurement of said acts of incorporation Byron Sprague sold all of his interest in the property and estate held by A. & W. Sprague, with the exception of the Quidnick property, to the said Amasa and William Sprague.

And as to the matters set forth in folios 38 and 39 of said bill this defendant admits that the said purchase of the interest of Byron Sprague was made without her knowledge, and that she did thereafterwards acquiesce in said transaction; but this defendant denies that by means of said purchase over $600,000 in cash or cash assets, or any other sum, had been withdrawn from the assets in the possession of Amasa and William Sprague, as survivors, etc., or that there was anything in said transaction which tended in the least degree to prejudice the interests of her said wards in and to said property.

And this defendant further represents that after her said son, Byron Sprague, had made the sale above mentioned to Amasa Sprague and William Sprague she was desirous of ascertaining the value of her interest in the property under the management of the firm of A. & W. Sprague, and also the value of the interest to which she was entitled as guardian of the complainant and the other
143 children of her deceased daughter, said Susan S. Hoyt. Accordingly she demanded, through her counsel, at the instigation of her son, said Byron Sprague, an account of all the estate which she was entitled to receive as administratrix of her husband, deceased, less the value of the fractional interest therein to which Byron Sprague, as one of the heirs-at-law of her husband, was entitled. The said William Sprague and Amasa Sprague not complying promptly with her request she caused a bill in equity to be prepared by her counsel, Messrs. Thurston & Ripley, with whom was associated the late Benjamin R. Curtis, of Boston, wherein she prayed for the appointment of a receiver, for an account, and for such other relief as under the circumstances she would be entitled to receive. Inasmuch, however, as the filing of said bill and the prosecution of the same in the courts would involve an ascertainment of the value of the interest in the property held and managed by said firm belonging to the estate of Amasa Sprague, deceased, which for a period of nearly thirteen years had been under the sole management of her husband, William Sprague, and if proceeded with in an adversary and hostile spirit would entail long and tedious litigation, which would tend to the great injury of the firm of A. & W. Sprague, and be likely to impair the value of her own estate and that to which she would be entitled as guardian of the children of Susan Hoyt, she did, upon the advice of Edwin Hoyt, the father of said complainant, and of her son, Byron Sprague, propose to the said William Sprague and Amasa Sprague to avoid the cost, expense, and injury of an adversary litigation by having an amicable reference to ascertain what interest she had, individually and in her representative capacities, in the property under the control and management

of the firm of A. & W. Sprague, to which proposition the said Amasa and William Sprague consented.

144 And this defendant denies that this plan for ascertaining, definitely, what interest she had individually or was entitled to represent in the property under the control of said firm of A. & W. Sprague was the fruit of any scheme to avoid the performance of any duty, or to accomplish any unlawful end or purpose, or to cover up and conceal any acts done or omitted to be done on her part, but proceeded from an honest desire on her part to ascertain definitely what interest she had individually and what interest her wards had in the property in the hands of said surviving partners and the value of such interests.

And this defendant further represents that although she was desirous of definitely ascertaining the value of her interest, as well as the value of the interest of her wards, in the said estate and property, she did not desire to withdraw the same from the business industry out of which it had been earned. In order, however, to obtain the necessary authority for continuing the property of her said wards in such investment, she did, in connection with Edwin Hoyt, petition the General Assembly, at its January session, A. D. 1863, as set forth in "Exhibit A," annexed to the complainants' bill of complaint; and thereafterwards the resolution marked "Exhibit B," and attached to the complainants' bill, was by the General Assembly duly passed on the ninth day of March, A. D. 1863. Said petition was not caused to be prepared and presented to her by the said Amasa Sprague or William Sprague, nor was she influenced to sign the same by them; but she did execute the same because it was advised by her said son, the said Byron Sprague, and by the said Edwin Hoyt, and because her judgment concurred therein.

And this defendant, further answering, says that after the passage of the resolution by the General Assembly she renewed, through her counsel, her efforts to procure an agreement of reference with the said Amasa Sprague and William Sprague, and with the

145 other parties interested in the estates of Amasa Sprague and William Sprague, seniors, deceased; but the matter requiring long and protracted negotiations as to details was not finally settled till about the first day of April, 1865, when the agreement marked "Exhibit C" and attached to said bill of complaint was formally executed by all the parties having any interest in the estate; and this defendant says that said agreement, marked "C," was not prepared by the attorneys-at-law of the said Amasa Sprague and William Sprague, and by them presented to this defendant to sign, but was prepared by Benjamin F. Thurston, the attorney of this defendant, and by John A. Gardner, the attorney of said Amasa and William Sprague.

This defendant well understood the contents and purport of said agreement at the time that she signed the same and approved thereof, and executed the same at the city of New York at the same time that the same was signed by Edwin Hoyt, and on the occasion when she was visiting at his house. Neither the said Amasa Sprague nor the said William Sprague was present at the time, or

or had anything whatever to do with influencing her to sign the same. Moreover this defendant says that in view of the fact that from the time of the decease of Amasa Sprague, in the year 1843, the shares which his widow and children were entitled to in his estate had been used and employed as capital in the business of the firm, and in view of the fact that the estate of William Sprague had also, since his decease in 1856, been in a like manner employed to the great advantage of the estate, the way proposed by the agreement, "Exhibit C," was in her opinion the only practical and effectual way of ascertaining, without prejudice to the estate, the extent and the value of the interest to which she was entitled individually and in her representative capacities in the said property under the management of the said firm of A. & W. Sprague.

146 And this defendant further says that the said Benjamin F. Thurston and the said John A. Gardner, the referees named in said agreement marked "Exhibit C," were, respectively, the counsel of this defendant and of the said Amasa and William Sprague; and this defendant is informed and believes that the said Thurston had not, up to that time, acted in any matter or thing as the attorney, solicitor, or counsel of the said Amasa and William, nor had the said Gardner, up to that time, ever acted as attorney, solicitor, or counsel for this defendant. The said Thurston had acted as the counsel of her son, Byron Sprague, in his controversy with the said Amasa and William and in various other business matters after the connection of the said Byron with said firm ceased. She is further informed that said referees entered upon their duties immediately after their appointment, and were engaged until the first day of July following in the performance of the labor required of them, and made their report to the parties on said first day of July, as set forth in Exhibits "D" and "E," annexed to the complainant's bill.

And this defendant submits that the said resolution of the General Assembly marked "Exhibit B" and the said agreement of reference marked "Exhibit C" and the said reports marked "Exhibits D and E" are conclusive and binding upon the said complainant, and she prays the same benefit of the facts herein stated as if she had set up the same by plea to said bill, or as she would have been entitled to had she demurred to said bill.

And this defendant, further answering, says that after the coming in of the said report of the said referees she did, on the nineteenth day of July, 1865, file the petition, as guardian of the said Edwin Hoyt, complainant, and the other children of Susan Hoyt, deceased, before the probate court of the town of Warwick, which is marked "Exhibit F," attached to the complainant's bill,

147 wherein she prayed that the said court would approve the bond of herself and Edwin Hoyt, as principals, and Byron Sprague and William Sprague, as sureties, tendered by her in compliance with the resolution of the General Assembly authorizing her to make conveyance, in her capacity as guardian, of all the right, title, and interest of the said complainant and the other minor children of Susan Hoyt in and to all the estate and property held, owned, and managed by the firm of A. & W. Sprague, a copy of

which said bond is annexed to the complainant's bill, marked "Exhibit I," and also praying that said court, under the general powers reposed in them by law, would authorize her to sell the said property of her said wards for the purpose of making a more advantageous investment thereof.

And this defendant denies that she was ignorant of the character or purpose of said petition, but, on the contrary, she well understood that it was a proper and necessary step to enable her to fully execute the authority contained in the resolution of the General Assembly empowering her to invest the estate of her wards in the stock of the A. & W. Sprague Manufacturing Company and the Quidnick Company; and said court of probate afterwards acted upon said petition, and on the fifth day of August, 1865, did pass the decree, as set forth in "Exhibit G," and annexed to the complainant's bill of complaint.

And afterwards, on the ninth day of August, 1865, this defendant did make the deed of conveyance in pursuance of the hereinbefore-recited authority, which is set forth in "Exhibit K," attached to the complainant's bill, of her own voluntary act, and without any inducement from Amasa and William Sprague.

And this defendant further says that on the eleventh day of August, 1866, she exhibited, under oath, to the appraisers appointed by the court of probate of the town of Warwick, an inventory of all the real and personal estate of the said complainant, and the same
148 was on said day duly returned to said court, and by said court received on the thirteenth day of August, 1866.

Said inventory comprehended not only the number of shares of the capital stock of the A. & W. Sprague Manufacturing Company and Quidnick Company which represented the value of complainant's interest in properties of said corporation, and the cash dividend due from the A. & W. Sprague Manufacturing Company, but also 121 shares of the National Bank of Commerce, of Providence, one U. S. six per cent. bond, two New York, Providence and Boston railroad bonds, which before the making of said agreement, "Exhibit C," she had purchased with moneys drawn by her from time to time, as guardian, from the firm of A. & W. Sprague.

And this defendant answers the several interrogatories propounded to her as follows:

First. This defendant has never filed or passed any account as administratrix of her husband, William Sprague. The estate of the said William Sprague was wholly invested in the firm of A. & W. Sprague, and the surviving partners of said firm had control of the same until the affairs of said firm were liquidated, and the several interests of the said William Sprague ascertained therein.

Fourth. This defendant did sign the said petition, a copy of which, marked "Exhibit A," is annexed to the complainant's bill.

Twelfth. Stock of the A. & W. Sprague Manufacturing Company, at its ascertained value per share, to the amount of $75,000, was sold by her to Amasa and William Sprague, and she received in payment therefor shares of stock in various banks, insurance companies, railroad bonds, etc., which was equivalent in value to the sum of $75,000.

Thirteenth. This defendant says that the surviving partners of the firm of A. & W. Sprague had not liquidated the affairs of said firm and ascertained the share of the said William Sprague, deceased,
149 prior to the execution of the agreement of reference marked "Exhibit C," and that all the estate of the said William Sprague was invested in said copartnership of A. & W. Sprague and the Quidnick Company.

Sixteenth. This defendant says that all the property which, as guardian or administratrix, she was entitled to have was involved with the copartnership property under the management of A. & W. Sprague, and that the surviving partners of said firm had control of the assets and property of said copartnership, and had not liquidated the affairs of the firm prior to the making of the agreement of reference marked "Exhibit C."

Seventeenth. This defendant says that all and every part of the property in the inventory marked "Exhibit M" was in her hands and in her separate possession and under her control, except the item marked "Dividend due from A. & W. Sprague, as cash, March 31, 1865."

And this defendant, further answering, says that said complainant has, before the filing of the bill of complaint in this case, been of full age for more than seven years, and that he has sold his shares in said Quidnick Company and has received payment therefor.

And this defendant denies the truth and correctness of each and every one of the covert insinuations that fraud has been in some way committed by her towards the complainant, or that she has
150 been a party to any scheme to injure or prejudice said complainant in his estate. Such insinuations, in said bill contained, she is unable otherwise than thus generally to deny, in the absence of any specific allegations admitting of a more particular denial.

And, furthermore, this defendant denies that in any of the matters and things done or omitted to be done, as set forth in said bill of complaint, she acted under the direction and dictation of the said Amasa and William Sprague and their attorneys, or otherwise than according to the advice of her son, Byron Sprague, and Edwin Hoyt, the father of said complainant, and in accordance with her own judgment.

Moreover, for a considerable period before her son, Byron Sprague, retired from the firm of A. & W. Sprague she and her son, Byron Sprague, were not on friendly personal relations with the said Amasa and William Sprague, and after the retirement of the said Byron from the firm, and during all the period that she was endeavoring to have the interest which she individually and as guardian had in the property under the control of said firm of A. & W. Sprague ascertained, and during the whole period that negotiations were going on for ascertaining the same, and during the whole period that the business was proceeding before the referees, she was in antagonistic and adversary relations toward the said Amasa and William.

And this defendant submits that the said complainant has not on his bill shown any case in equity, or case entitling him to proceed

against her in this honorable court, and prays all such benefit as if she had demurred to said bill.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith she is by said bill charged, without this, that there is any other matter, cause, or thing in said complainant's bill of complaint contained material or necessary for this defendant to make answer unto and not herein and
151 hereby well and sufficiently answered, confessed, traversed, and avoided or denied is true to the knowledge or belief of this defendant; all of which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

MARY SPRAGUE.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

152 UNITED STATES OF AMERICA, }
Rhode Island District, Providence, } *ss:*

In the city of Providence, on this seventh day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, personally appeared Mary Sprague, subscriber to the foregoing answer and made oath that the statements made in said answer as of her own knowledge are true, and those made therein as of her information and belief she verily believes to be true, and that the plea embodied in said answer is not interposed for delay, and is true in point of fact.

Witness my hand and seal at Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

This is to certify that, in our opinion, the plea embodied in the foregoing answer is well founded in point of law.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

153 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said

Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island, and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company.

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators, and assigns, forever.

In testimony whereof I have hereunto set my hand and seal this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally
154 appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City*

155 EXHIBIT 2.

Know all men by these presents that, for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt, — true and lawful attorney (with power of substitution) for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company. And my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal, 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, } *ss:*
City and County of New York, }

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally appeared the within-named Edwin Hoyt, junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

156 RHODE ISLAND DISTRICT, *sc:*

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends,
vs.
AMASA SPRAGUE *et als.* } No. —.

The answer of Fanny Sprague, individually and as administratrix of the goods, chattels, and credits which were of Amasa Sprague, deceased, one of the defendants to the above-entitled bill of complaint.

This defendant, saving and reserving unto herself all benefit and advantage of exception to the many errors, inconsistencies, and insufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as she is advised is material and necessary for her to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed, save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised so far as the same are material to this case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that it is true that the said Edwin Hoyt is now, or that he has been during his whole life, or during any part of his life, a person of unsound mind, incapable of transacting business or attending to or managing his affairs: on
157 the contrary, this defendant avers, upon information and belief, that the said Edwin Hoyt has, since attaining the age of twenty-one years and previous to said finding of said commission in lunacy, been conversant with his own business affairs and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument dated the ninth day of December, A. D. 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration,

transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of stock of the Quidnick Company hereinafter mentioned, as by a copy of said deed or instrument hereunto annexed, marked Exhibit 1, and made a part of this answer, will fully appear: and that by his certain power of attorney dated the ninth day of December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, hereinafter mentioned, his attorney for certain purposes, as will fully appear by the copy of said power of attorney hereto annexed, marked Exhibit 2, and made a part of this answer.

And this defendant, further answering, admits it to be true that prior to the year 1843 Amasa Sprague and William Sprague, now deceased, were copartners in trade, and were engaged in the business of manufacturing and selling cloths and prints; that the said firm did a successful business, but had not accumulated at the decease of said Amasa an estate of more than $100,000 beyond their liabilities. The said firm were owners of real estate in the State of Rhode Island and elsewhere, and all of this property, real and personal, was held in common and undivided, and
158 the real estate was principally held and employed for the uses of the copartnership. The property of the firm was treated and held as the common property of the copartnership, the expenses of the families of each of the partners were paid out of the common property, and all of the accounts of the copartnership were kept on the simple system of single-entry bookkeeping. Neither of the partners had any individual property or estate distinct or separate from the other, but their energies were directed to the development of the manufacturing business and the accumulation of the property, for the common and equal benefit of themselves and their families respectively, and all their property, of every kind, was copartnership property up to the time of the formation of the corporations hereinafter mentioned. The said Amasa Sprague died intestate in the month of December, 1843, leaving this defendant, his widow, and four children surviving. The said William Sprague, as surviving partner, carried on the business of said firm, and he did not, as this defendant is informed and believes, liquidate the affairs of the firm and account to the representatives of his deceased brother, Amasa, for the comparatively small sum which would have resulted to them upon the settlement at that date of the business of the copartnership; on the contrary, he believes that it was his duty to consider the interest of his deceased brother's widow and children as entitled to his protection, and to be increased by the fruits of his energy and labors, notwithstanding he was deprived of the aid and assistance of his said brother. The said William Sprague continued the business in the original name of A. & W. Sprague, for the equal benefit of himself and the representatives of his deceased brother, from the time of the death of said Amasa, in 1843, until his own death, in the month of October, in 1856. At the time of his decease the property and estate of said copartnership was

very greatly increased, as the result of his labors, skill, and business sagacity.

159 Prior to the decease of the said William Sprague, to wit, in the year 1856, the said William Sprague took into copartnership his own son, Byron Sprague, and Amasa and William Sprague, the two surviving sons of Amasa, deceased.

Susan Sprague, the daughter of the said William Sprague and of said Mary Sprague, married Edwin Hoyt, of New York, and died on the 28th of October, 1853, intestate, leaving said complainant and three other children, issue of said marriage, surviving.

The said William Sprague, senior, died intestate on the 19th day of October, 1856, leaving said Mary Sprague his widow, his son, Byron, and the children of Susan Hoyt, deceased, his heirs-at-law surviving.

This defendant is informed and believes that said Mary Sprague duly received letters of administration on the estate of said William Sprague on the 8th of December, 1856, from the probate court of the town of Warwick.

On the ninth of February, 1857, as this defendant is informed and believes, said Mary Sprague was appointed guardian of the property of said complainant. Immediately after the decease of said William Sprague, senior, and at the time of the appointment of said Mary Sprague as guardian of said complainant, the property of the copartnership of A. & W. Sprague was managed by Byron Sprague, Amasa Sprague, and William Sprague, under the advice and with the assistance of Mary Sprague and of this defendant, mother of the said Amasa and William, in said firm name, for the common benefit of all parties interested therein. The business of the firm was, in 1856 and subsequently, greatly extended, and in the opinion of all the parties in interest it was deemed unadvisable to wind up its affairs.

Edwin Hoyt, the father of said complainant, was frequently advised with by this defendant, and he urged that the business be conducted for the benefit of all parties in interest, without any liquida-

160 tion being had of the business of the firm. The copartnership at the time was engaged in a highly prosperous business, was rapidly increasing its assets, and continued to do so until long after the formation of the corporation hereinafter mentioned.

In the month of May, 1862, with the view of disentangling the interests of the several parties interested in the property held under the management of the firm of A. & W. Sprague, and of assigning to each his or her proper share therein, and for more conveniently and systematically managing such interests and the business, acts of incorporation for the A. & W. Sprague Manufacturing Company and the Quidnick Company were petitioned for and granted by the General Assembly of the State of Rhode Island.

Soon after the procurement of said acts of incorporation Byron Sprague sold all of his interest in the property and estate held by A. & W. Sprague, with the exception of the Quidnick property, to the said Amasa and William Sprague.

And as to the matters set forth in folios 38 and 39 of said bill this defendant is informed and believes that the said purchase of the

interest of Byron Sprague was made without the knowledge of said Mary Sprague, and that said Mary Sprague did thereafterwards acquiesce in said transaction; but this defendant denies that by means of said purchase over $600,000 in cash or cash assets, or any other sum, had been withdrawn from the assets in the possession of Amasa and William Sprague, as survivors, etc., or that there was anything in said transaction which tended in the least degree to prejudice the interests of said wards of said Mary Sprague in and to said property.

And this defendant is informed and believes that after said Byron Sprague had made the sale above mentioned to Amasa Sprague and William Sprague said Mary Sprague was desirous of ascer-
161 taining the value of her interest in the property under the management of the firm of A. & W. Sprague, and also the value of the interest to which she was entitled as guardian of the complainant and the other children of her deceased daughter, said Susan S. Hoyt. Accordingly she demanded, through her counsel at the instigation of her son, said Byron Sprague, an account of all the estate which she was entitled to receive as administratrix of her husband, deceased, less the value of the fractional interest therein to which Byron Sprague, as one of the heirs-at-law of her husband, was entitled. The said William Sprague and Amasa Sprague not complying promptly with her request, she caused a bill in equity to be prepared by her counsel, Messrs. Thurston & Ripley, with whom was associated the late Benjamin R. Curtis, of Boston, wherein she prayed for the appointment of a receiver, for an account, and for such other relief as under the circumstances she would be entitled to receive. Inasmuch, however, as the filing of said bill and the prosecution of the same in the courts would involve an ascertainment of the value of the interest in the property held and managed by said firm belonging to the estate of Amasa Sprague, deceased, which for a period of nearly thirteen years had been under the sole management of her husband, William Sprague, and if proceeded with in an adversary and hostile spirit would entail long and tedious litigation, which would tend to the great injury of the firm of A. & W. Sprague, and be likely to impair the value of her own estate and that to which she would be entitled as guardian of the children of Susan Hoyt, she did, upon the advice of Edwin Hoyt, the father of said complainant, and of her son, Byron Sprague, propose to the said William Sprague and Amasa Sprague to avoid the cost, expense, and injury of an adversary litigation by having an amicable refer-
ence to ascertain what interest she had, individually and in
162 her representative capacities, in the property under the control and management of the firm of A. & W. Sprague, to which proposition the said Amasa and William Sprague consented.

And this defendant denies that this plan for ascertaining definitely what interest said Mary Sprague had individually or was entitled to represent in the property under the control of said firm of A. & W. Sprague was the fruit of any scheme to avoid the performance of any duty, or to accomplish any unlawful end or purpose, or to cover up and conceal any acts done or omitted to be done on the part of said Mary Sprague, or any one else, to her knowledge, but

proceeded from an honest desire on the part of said Mary Sprague to ascertain definitely what interest said Mary Sprague had individually and what interest her wards had in the property in the vands of said surviving partners and the value of such interests.

And this defendant is informed and believes that, although said Mary Sprague was desirous of definitely ascertaining the value of her interest, as well as the value of the interest of her wards, in the said estate and property, she did not desire to withdraw the same from the business industry out of which it had been earned. In order, however, to obtain the necessary authority for continuing the property of her said wards in such investment she did, as this defendant is informed and believes, in connection with Edwin Hoyt, petition the General Assembly, at its January session, A. D. 1863, as set forth in "Exhibit A," annexed to the complainant's bill of complaint. And thereafterwards the resolution, marked "Exhibit B," and attached to the complainant's bill, was by the General Assembly duly passed on the ninth day of March, A. D. 1863. Said petition was not caused to be prepared and presented to the said Mary Sprague by the said Amasa Sprague or William Sprague, nor was she influenced to sign the same by them; but said Mary Sprague did execute the same, as this defendant is informed and be-
163 lieves, because it was advised by her said son, the said Byron Sprague, and by the said Edwin Hoyt, and because her judgment concurred therein.

And this defendant, further answering, says, upon information and belief, that after the passage of the resolution by the General Assembly she renewed, through her counsel, her efforts to procure an agreement of reference with the said Amasa Sprague and William Sprague, and with the other parties interested in the estates of Amasa Sprague and William Sprague, seniors, deceased; but the matter requiring long and protracted negotiations as to details was not finally settled till about the first day of April, 1865, when the agreement, marked "Exhibit C," and attached to said bill of complaint, was formally executed by all the parties having any interest in the estate. And this defendant is informed and believes that said agreement, marked "C," was not prepared by the attorneys-at-law of the said Amasa Sprague and William Sprague, and by them presented to this defendant to sign, but was prepared by Benjamin F. Thurston, the attorney of said Mary Sprague, and by John A. Gardner, the attorney of said Amasa and William Sprague.

This defendant is informed and believes that said Mary Sprague well understood the contents and purport of said agreement at the time that she signed the same, and approved thereof and executed the same at the city of New York at the same time that the same was signed by Edwin Hoyt, and on the occasion when she was visiting at his house. Neither the said Amasa Sprague nor the said William Sprague, as this defendant is informed and believes, was present at the time, or had anything whatever to do with influencing her to sign the same. Moreover, this defendant is informed and believes that, in view of the fact that from the time of the decease of

Amasa Sprague, in the year 1843, the shares which his widow
164 and children were entitled to in his estate had been used and employed as capital in the business of the firm, and in view of the fact that the estate of William Sprague had also, since his decease in 1856, been in a like manner employed to the great advantage of the estate, the way proposed by the agreement, "Exhibit C," was in her opinion the only practical and effectual way of ascertaining, without prejudice to the estate, the extent and the value of the interest to which she was entitled individually and in her representative capacities in the said property under the management of the said firm of A. & W. Sprague.

And this defendant is informed and believes that the said Benjamin F. Thurston and the said John A. Gardner, the referees named in said agreement, marked "Exhibit C," were respectively the counsel of said Mary Sprague and of the said Amasa and William Sprague. And this defendant is informed and believes that the said Thurston had not, up to that time, acted in any matter or thing as the attorney, solicitor, or counsel of the said Amasa and William; nor had the said Gardner, up to that time, ever acted as attorney, solicitor, or counsel for said Mary Sprague; the said Thurston had acted as the counsel of said Byron Sprague, in his controversy with the said Amasa and William, and in various other business matters after the connection of the said Byron with said firm ceased. She is further informed that said referees entered upon their duties immediately after their appointment, and were engaged until the first day of July following in the performance of the labor required of them, and made their report to the parties on said first day of July, as set forth in Exhibits "D" and "E," annexed to the complainant's bill.

And this defendant submits that the said resolution of the General Assembly, marked "Exhibit B," and the said agreement of reference, marked "Exhibit C," and the said reports, marked "Exhibits D and E," are conclusive and binding upon the said complainant.

165 And this defendant, further answering, says that she is informed and believes that, after the coming in of the said report of the said referees, said Mary Sprague did, on the nineteenth day of July, 1865, file the petition, as guardian of the said Edwin Hoyt, complainant, and the other children of Susan Hoyt, deceased, before the probate court of the town of Warwick, which is marked "Exhibit F," attached to the complainant's bill, wherein she prayed that the said court would approve the bond of herself and Edwin Hoyt as principals, and Byron Sprague and William Sprague as sureties, tendered by her in compliance with the resolution of the General Assembly authorizing her to make conveyance, in her capacity as guardian, of all the right, title, and interest of the said complainant, and the other minor children of Susan Hoyt, in and to all the estate and property held, owned, and managed by the firm of A. & W. Sprague, a copy of which said bond is annexed to the complainant's bill, marked "Exhibit I," and also praying that said court, under the general powers reposed in them by law, would au-

thorize her to sell the said property of her said wards for the purpose of making a more advantageous investment thereof.

And this defendant is informed and believes that said Mary Sprague was not ignorant of the character or purpose of said petition, but, on the contrary, she well understood that it was a proper and necessary step to enable her to fully execute the authority contained in the resolution of the General Assembly, empowering her to invest the estate of her wards in the stock of the A. & W. Sprague Manufacturing Company and the Quidnick Company. And said court of probate afterwards acted upon said petition, and on the fifth day of August, 1865, did pass the decree, as set forth in "Exhibit G," and annexed to the complainant's bill of complaint.

And afterwards, on the ninth day of August, 1865, said
166 Mary Sprague did make the deed of conveyance, in pursuance of the hereinbefore-recited authority, which is set forth in "Exhibit K," attached to the complainant's bill, as this defendant is informed and believes, of her own voluntary act and without any inducement from Amasa and William Sprague.

And this defendant further says that she is informed and believes that on the eleventh day of August, 1866, said Mary Sprague exhibited, under oath, to the appraisers appointed by the court of probate of the town of Warwick, an inventory of all the real and personal estate of the said complainant, and the same was on said day duly returned to said court, and by said court received on the thirteenth day of August, 1866.

Said inventory comprehended not only the number of shares of the capital stock of the A. & W. Sprague Manufacturing Company and Quidnick Company, which represented the value of complainant's interest in properties of said corporation and the cash dividend due from the A. & W. Sprague Manufacturing Company, but also 123 shares of the National Bank of Commerce of Providence, one U. S. six per cent. bond, two New York, Providence, and Boston railroad bonds, which this defendant is informed and believes the said Mary Sprague, before the making of said agreement, "Exhibit C," had purchased with moneys drawn by her from time to time, as guardian, from the firm of A. & W. Sprague.

And this defendant, further answering, says that said complainant has, before the filing of the bill of complaint in this case, been
of full age for more than seven years, and that he has sold
167 his shares in the Quidnick Company and received payment therefor.

And this defendant denies the truth and correctness of each and every one of the covert insinuations that fraud has been in some way committed by her towards the complainant, or that she has been a party to any scheme to injure or prejudice said complainant in his estate. Such insinuations in said bill contained she is unable otherwise than thus generally to deny, in the absence of any specific allegations admitting of a more particular denial.

And, furthermore, this defendant is informed and believes that it is not true that in any of the matters and things done or omitted to be done, as set forth in said bill of complaint, said Mary Sprague

acted under the direction and dictation of the said Amasa and William Sprague and their attorneys, or otherwise than according to the advice of her son, Byron Sprague, and Edwin Hoyt, the father of said complainant, and in accordance with her own judgment.

Moreover, this defendant is informed and believes that for a considerable period before said Byron Sprague retired from the firm of A. & W. Sprague said Mary Sprague and her son, Byron Sprague, were not on friendly personal relations with the said Amasa and William Sprague, and after the retirement of the said Byron from the firm, and during all the period that said Mary Sprague was endeavoring to have the interest which she individually and as guardian had in the property under the control of said firm of A. & W. Sprague ascertained, and during the whole period that negotiations were going on for ascertaining the same, and during the whole period that the business was proceeding before the referees, she
168 was in antagonistic and adversary relations toward the said Amasa and William.

And this defendant denies that in pursuance of any plan or scheme or otherwise, the said Byron, Amasa, and William Sprague, or either of them, induced or persuaded this defendant, as administratrix of the said Amasa Sprague, deceased, or in any other capacity, to remain wholly passive, as she had done during the life of William Sprague, the elder, or otherwise, or to leave the whole property and assets and the management and control thereof and of the business entirely in their hands and at their will.

And this defendant denies that the said Amasa Sprague and William Sprague, or either of them, had, during the time from the death of William Sprague, in 1856, to the year 1865, advanced and paid out to her very large sums of money from the said property and assets, and from the business carried on by means thereof, but admits that she received small sums from time to time for personal and family expenses, which were charged to her on the books, and which were duly charged against her, and duly accounted for by her at the time her interest was fixed by the referees aforesaid.

And this defendant submits that the said complainant has not on his bill shown any case in equity or case entitling him to proceed against her in this honorable court, and prays all such benefit as if she had demurred to said bill.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith she is by said bill charged, without this, that there is any other matter, cause, or thing in said complainant's bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true, to the knowledge or belief of this defendant; all of which matters and things this defendant is ready and willing
169 to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with her

reasonable costs and charges in this behalf most wrongfully sustained.

FANNY SPRAGUE.

C. FRANK PARKHURST,
CHARLES HART
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

170 UNITED STATES OF AMERICA, } ss:
Rhode Island District, Providence, }

In the city of Providence, on this 7th day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, personally appeared Fanny Sprague, subscriber to the foregoing answer, and made oath that the statements made in said answer as of her own knowledge are true, and those made therein as of her information and belief she verily believes to be true.

Witness my hand and seal, at Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

171 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island, and established and doing business in the State of Rhode Island and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company.

To have and hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators, and assigns, forever.

In testimony whereof I have hereunto set my hand and seal this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of

Rhode Island to take the acknowledgment of deeds, &c., per-
172 sonally appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

173 EXHIBIT 2.

Know all men by these presents, that for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt, — true and lawful attorney (with power of substitution) for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company; and my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal, 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgments of deeds, &c., personally appeared the within-named Edwin Hoyt, junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

174 RHODE ISLAND DISTRICT, *sc:*

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends,
vs.
AMASA SPRAGUE *et als.*
No. —.

The answer of the A. & W. Sprague Manufacturing Company, one of the defendants, to the above-entitled bill of complaint

The defendant, saving and reserving unto itself all benefit and advantage of exception to the many errors, inconsistencies, and insufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as it is advised is material and necessary for it to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed, save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised, so far as the same are material to this case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that the said Edwin Hoyt is now, and that he has been during his whole life, or during any part of his life, a person of unsound mind, incapable of transacting business or attending to or managing his affairs; on the con-
175 trary, this defendant, upon information and belief, avers that the said Edwin Hoyt has, since attaining the age of twenty-one years, and previous to said finding of said commission in lunacy, been conversant with his own business affairs, and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument, dated the ninth day of December, A. D. 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration, transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of stock of the Quidnick Company hereinafter mentioned, as by a copy of said deed hereunto annexed, marked Exhibit 1, and made a part of this answer, will fully appear; and that by his certain power of attorney, dated the ninth day of December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, hereinafter mentioned, his attorney for certain purposes, as will fully appear by the copy of said power of attorney hereto annexed, maked Exhibit 2, and made a part of this answer.

And this defendant, further answering, says, that the said defendants, William Sprague and Amasa Sprague, and the said defendants, Fannie Sprague and Mary Sprague, in their individual capacities, and severally as administratrix of the estates of Amasa Sprague, deceased, and William Sprague, deceased, and the said children of the said

Susan Hoyt, deceased, namely: Sarah Hoyt, William S. Hoyt, Susan S. Francklyn, and Edwin Hoyt, Jr., the complainant, then represented and acting by said Mary Sprague, the guardian of their estates, as shown in the complainant's bill, previously to and on the ninth
176 day of August, 1865, were seized in fee-simple, and were in the actual possession, free of all incumbrances whatsoever, of all the estates and property conveyed and purporting to have been conveyed to this defendant by their deed, bearing date on said ninth day of August, 1865, a copy of which, marked "Exhibit K," is annexed to and made a part of the complainant's bill, and claimed to be, and this defendant avers were, competent and in their respective representative capacities, as administratrix and guardian as aforesaid, fully authorized and empowered to sell and convey all said estate and property in fee-simple, free from all incumbrances as aforesaid.

This defendant, believing that the aforesaid parties, grantors in said deed, were so seized and entitled to all said estate and property, and that the same were in fact free from all incumbrances on said ninth day of August, 1865, agreed with the said parties for the absolute purchase of the fee-simple and inheritance thereof; whereupon said parties, by their deed aforesaid, for the consideration of one dollar and the covenants and agreements contained in the agreement of the 1st of April, 1865, referred to in said deed, and 10,000 shares of the capital stock of this defendant corporation, issued, paid, and delivered to said parties, grantors under said agreement, bargained, sold, released, and confirmed unto this defendant, all said estates and property, to hold to the use of this defendant and its assigns forever.

And this defendant avers that the said consideration in said deed mentioned was actually paid to said parties, grantors therein, at the time said deed bears date. And this defendant doth also aver that at and before the respective times of the execution and delivery to the defendant of said deed, and the payment of said purchase-money therefor as aforesaid, this defendant had no notice whatsoever of the claims or pretended rights or equities now set up by said com-
177 plainant in said bill, or of any or either of them. And this defendant insists that it is a *bona fide* purchaser of the said estates and property for a good and valuable consideration, and without notice of the claims or pretended rights or equities now set up by said complainant in said bill of complaint, or of any or either of them. And relying upon such purchase, and before notice of any such rights and equities as are asserted by said bill, this defendant, being a manufacturing corporation, did carry on extensively the business of manufacturing and purchasing from other manufacturers cotton goods and all other necessary supplies for its mills and print works, and converted the goods so manufactured by it, and purchased from others, into calicoes, and was otherwise largely engaged in other business incidental to and connected with said business. And this defendant avers that in the course of the prosecution of its business, and for conducting the same, it became necessary to contract, and it did contract, a large indebtedness for the purchase of

supplies, materials, and machinery for the various mills and print-works, and for moneys loaned to it for the purchase of such materials, for the payment of wages, and other necessary and incidental purchases; and that this defendant did, during said time, purchase and acquire large additions of real, personal, and mixed property for the purpose of its said business and in enlargement of and extension of the same, and all of which property and estate passed for the benefit of creditors under the deeds of trust and assignment hereinafter referred to.

And this defendant avers that the amount of said indebtedness so contracted as aforesaid for the purposes aforesaid amounted, at the time of the conveyance for the benefit of creditors hereinafter mentioned, to a very large sum of money, to wit, the sum of — millions of dollars, and that all of said indebtedness was contracted in good faith, in the ordinary course of business, with the several
178 parties holding such indebtedness as creditors of this defendant before any notice to this defendant or any assertion of right or claim on the part of the complainant of any such pretended equities as are set forth in said bill.

And this defendant further avers that the said complainant, as a stockholder in the defendant corporation, is, by virtue of the statutes of the State of Rhode Island, no return having been made, either by the corporation, its officers, or the complainant, said Edwin Hoyt, as required by said statutes to exempt the stockholders from individual liability, individually liable for all the debts of the corporation, and all the estate and property of said complainant is liable to be taken on attachment for the debts of this defendant corporation and is holden to pay the same.

And this defendant submits that if the complainant has any such rights and equities as he has set up in his said bill the same are subordinate to the superior rights and equities of the creditors of this corporation.

And this defendant admits that the General Assembly of the State of Rhode Island, in May, 1862, granted a charter for the A. & W. Sprague Manufacturing Company, and that said company was organized under said charter in the year 1865, and the said William Sprague was elected president, and the said Amasa Sprague was elected treasurer thereof, but denies that the said defendants, Amasa Sprague, William Sprague, Fanny Sprague, and Mary Sprague, were then, or at any time since have been, the only stockholders of this corporation, and avers that there always have been, and now are, other stockholders in said company besides said four above-named defendants, who are not made parties to said bill, and further avers that at no time prior to the filing of said bill did said complainant, or any one on his behalf, apply to this defendant,
179 or to any of its officers, to institute any proceedings for any of the matters complained of in said bill.

And this defendant denies that the said Amasa and William Sprague had absolute control and management of the property and business of the corporation from the said organization until on or about the first day of December, 1873.

And this defendant admits that, in consequence of the financial disasters of the country in the fall of 1873, said firm of Hoyt, Sprague & Co. and this defendant became embarrassed, and said Hoyt, Sprague & Co. suspended payment in New York, whereby this defendant was also compelled to suspend payment, and afterwards did, on the first day of December, 1873, execute and deliver to Zechariah Chafee a trust deed of all its property, bearing date the first day of November, 1873, in trust and mortgage, to secure such of its creditors as should, within nine months from the date of said deed, bring in and surrender and discharge, or agree to extend the time for the payment of their respective debts, and accept therefor the notes of this defendant, bearing even date therewith, and payable three years from Jan. 1, 1874, with interest thereafter, payable semi-annually, at the rate of seven and three-tenths per centum per annum till the principal sum was paid, in which mortgage deed the said Amasa and William, individually and as copartners, and the said Mary Sprague and Fanny Sprague did also join, they all being stockholders in this defendant corporation, and as such individually liable for all its debts, and the said Amasa and William, as copartners, being also indorsers upon the great mass of the outstanding liabilities of this defendant; and also did thereafterwards, on the sixth day of April, 1874, execute and deliver to said Chafee a general assignment of all its property.

First. For the payment in full, if the assigned property proved sufficient, otherwise ratably, of all the claims of its creditors
180 which had then been, or should thereafter within said nine months be, brought in under said trust mortgage and extended for the term of time provided therein, and the notes secured thereby as aforesaid.

Secondly. The residue to apply in full, if sufficient, otherwise ratably, in payment of all other creditors of this defendant; and which deed of assignment did also provide, among other things, that said Chafee might allow this defendant to run its mills and printworks if he deemed it for the best interest of creditors so to do, under which provision, there having been no default under the mortgage, this defendant has remained in possession of its mills and print-works, carrying on the business thereof and applying the profits of the same to the payment of the interest under the mortgage.

This defendant avers that within the said nine months creditors representing to the amount of $8,717,450, being all but two of the creditors of the corporation, did come in under said trust mortgage and assent to its terms, and accept the extension mortgage notes thereunder, and thereupon did either surrender and discharge or agree to extend the time of payment of their original debts accordingly.

And this defendant avers that the said complainant became of full age on or about the sixteenth day of July, 1870, and has made sale to a *bona fide* purchaser for value of all his stock in said Quidnick Company, and has received the consideration therefor,
181 and has, from time to time, had the fullest opportunity to

supplies, materials, and machinery for the various mills and print-works, and for moneys loaned to it for the purchase of such materials, for the payment of wages, and other necessary and incidental purchases; and that this defendant did, during said time, purchase and acquire large additions of real, personal, and mixed property for the purpose of its said business and in enlargement of and extension of the same, and all of which property and estate passed for the benefit of creditors under the deeds of trust and assignment hereinafter referred to.

And this defendant avers that the amount of said indebtedness so contracted as aforesaid for the purposes aforesaid amounted, at the time of the conveyance for the benefit of creditors hereinafter mentioned, to a very large sum of money, to wit, the sum of — millions of dollars, and that all of said indebtedness was contracted in good faith, in the ordinary course of business, with the several
178 parties holding such indebtedness as creditors of this defendant before any notice to this defendant or any assertion of right or claim on the part of the complainant of any such pretended equities as are set forth in said bill.

And this defendant further avers that the said complainant, as a stockholder in the defendant corporation, is, by virtue of the statutes of the State of Rhode Island, no return having been made, either by the corporation, its officers, or the complainant, said Edwin Hoyt, as required by said statutes to exempt the stockholders from individual liability, individually liable for all the debts of the corporation, and all the estate and property of said complainant is liable to be taken on attachment for the debts of this defendant corporation and is holden to pay the same.

And this defendant submits that if the complainant has any such rights and equities as he has set up in his said bill, the same are subordinate to the superior rights and equities of the creditors of this corporation.

And this defendant admits that the General Assembly of the State of Rhode Island, in May, 1862, granted a charter for the A. & W. Sprague Manufacturing Company, and that said company was organized under said charter in the year 1865, and the said William Sprague was elected president, and the said Amasa Sprague was elected treasurer thereof, but denies that the said defendants, Amasa Sprague, William Sprague, Fanny Sprague, and Mary Sprague, were then, or at any time since have been, the only stockholders of this corporation, and avers that there always have been, and now are, other stockholders in said company besides said four above-named defendants, who are not made parties to said bill, and further avers that at no time prior to the filing of said bill did said complainant, or any one on his behalf, apply to this defendant,
179 or to any of its officers, to institute any proceedings for any of the matters complained of in said bill.

And this defendant denies that the said Amasa and William Sprague had absolute control and management of the property and business of the corporation from the said organization until on or about the first day of December, 1873.

And this defendant admits that, in consequence of the financial disasters of the country in the fall of 1873, said firm of Hoyt, Sprague & Co. and this defendant became embarrassed, and said Hoyt, Sprague & Co. suspended payment in New York, whereby this defendant was also compelled to suspend payment, and afterwards did, on the first day of December, 1873, execute and deliver to Zechariah Chafee a trust deed of all its property, bearing date the first day of November, 1873, in trust and mortgage, to secure such of its creditors as should, within nine months from the date of said deed, bring in and surrender and discharge, or agree to extend the time for the payment of their respective debts, and accept therefor the notes of this defendant, bearing even date therewith, and payable three years from Jan. 1, 1874, with interest thereafter, payable semi-annually, at the rate of seven and three-tenths per centum per annum till the principal sum was paid, in which mortgage deed the said Amasa and William, individually and as copartners, and the said Mary Sprague and Fanny Sprague did also join, they all being stockholders in this defendant corporation, and as such individually liable for all its debts, and the said Amasa and William, as copartners, being also indorsers upon the great mass of the outstanding liabilities of this defendant; and also did thereafterwards, on the sixth day of April, 1874, execute and deliver to said Chafee a general assignment of all its property.

First. For the payment in full, if the assigned property proved sufficient, otherwise ratably, of all the claims of its creditors
180 which had then been, or should thereafter within said nine months be, brought in under said trust mortgage and extended for the term of time provided therein, and the notes secured thereby as aforesaid.

Secondly. The residue to apply in full, if sufficient, otherwise ratably, in payment of all other creditors of this defendant; and which deed of assignment did also provide, among other things, that said Chafee might allow this defendant to run its mills and print-works if he deemed it for the best interest of creditors so to do, under which provision, there having been no default under the mortgage, this defendant has remained in possession of its mills and print-works, carrying on the business thereof and applying the profits of the same to the payment of the interest under the mortgage.

This defendant avers that within the said nine months creditors representing to the amount of $8,7[illegible]7,450, being all but two of the creditors of the corporation, did come in under said trust mortgage and assent to its terms, and accept the extension mortgage notes thereunder, and thereupon did either surrender and discharge or agree to extend the time of payment of their original debts accordingly.

And this defendant avers that the said complainant became of full age on or about the sixteenth day of July, 1870, and has made sale to a *bona fide* purchaser for value of all his stock in said Quidnick Company, and has received the consideration therefor,
181 and has, from time to time, had the fullest opportunity to

make, or cause to be made, examinations of the books of this defendant corporation in the exercise of his rights as a stockholder, the same having been open and accessible to him as such stockholder at all times, and that never until on or about the 28th day of April, A. D. 1875, did this defendant or any of its officers have any notice from the complainant, or from any other source, of any of the pretended rights or equities set up in complainants' said bill.

And this defendant avers that more than six years had elapsed after said sixteenth day of July, 1870, before the filing of complainant's said bill.

And this defendant, further answering, says that as as to all other matters set forth in the complainant's said bill of complaint this defendant has no knowledge whatsoever, and has no information as to the same, save by the complainant's bill of complaint, and leaves the complainant to prove the same as he may be advised.

And this defendant claims the benefit of each and all matters aforesaid in the same manner and to the same extent as if it had pleaded the same, and each of them, in bar to said bill, or to so much thereof as the same respectively would cover, and as if it had demurred to said bill.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith it is by said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall
182 direct, and prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully maintained.

A. & W. SPRAGUE M'F'G Co.,
Per AMASA SPRAGUE, *Treasurer.*

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

183 UNITED STATES OF AMERICA, }
Rhode Island District, } *ss:*

In the city of Providence, on this 6th day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, then personally appeared Amasa Sprague, treasurer of the A. & W. Sprague Manufacturing Company, subscriber to the foregoing answer on behalf of said corporation, and made oath that the statements made therein upon knowledge are true, and that those made therein upon information and belief he verily believes to be true, and that the plea embodied therein is not interposed for delay and is true in point of fact.

Witness my hand and seal at said Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

This is to certify that in our opinion the plea embodied in the foregoing answer is well founded in point of law.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

184 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company.

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators, and assigns, forever.

In testimony whereof I have hereunto set my hand and seal this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss*:

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., per-
185 sonally appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I nave hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

186 EXHIBIT 2.

Know all men by these presents that, for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt, — true and lawful attorney (with power of substitution), for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company; and my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgments of deeds, &c., personally appeared the within-named Edwin Hoyt, junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

187 RHODE ISLAND DISTRICT, *sc:*

Circuit Court of the United States. In Equity.

EDWIN HOYT, by CHARLES G. FRANCKLYN and WM. S. HOYT, His Next Friends, *vs.* AMASA SPRAGUE *et als.* } No. —.

The answer of Zechariah Chaffee, one of the defendants, to the above-entitled bill of complaint.

This defendant, saving and reserving unto himself all benefit and advantage of exception to the many errors, inconsistences, and insufficiencies in said bill of complaint contained, for answer thereunto, or to so much or such part thereof as he is advised is material and necessary for him to make answer unto, answering, says:

As to the matters set forth in paragraph "first" of said bill, from folio 5 to 7½, this defendant is not informed, save by said bill, and does not admit the same, and leaves said complainant to prove the same as he may be advised, so far as the same are material to this

case; and as to the matters set forth in part of folio 7 and folio 8 of said bill this defendant does not admit that the said Edwin Hoyt is now, and that he has been during his whole [life], or during any part of his life, a person of unsound mind, incapable of transacting business or attending to or managing his affairs; on the contrary,

188 this defendant, upon information and belief, avers that the said Edwin Hoyt has, since attaining the age of twenty-one years, and previous to said finding of said commission in lunacy, been conversant with his own business affairs, and has acted therein for himself, and has been recognized by members of his own family as competent to transact his own business, as is fully shown in and by the following transactions, to wit: That by his certain deed or instrument, dated the ninth day of December, 1873, and duly signed, sealed, delivered, witnessed, and acknowledged, said Edwin Hoyt (then Edwin Hoyt, Jr.), for valuable consideration, transferred to said Charles G. Francklyn, who appears in said bill as one of the next friends of said Edwin Hoyt, certain shares of the Quidnick Company, hereinafter mentioned, as by a copy of said deed or instrument hereunto annexed, marked Exhibit 1, and made a part of this answer, will fully appear; and that by his certain power of attorney, dated the ninth day December, A. D. 1873, duly signed, sealed, delivered, acknowledged, and witnessed, said Edwin Hoyt (then Edwin Hoyt, Jr.) appointed his father, Edwin Hoyt, his attorney for certain purposes, as will fully appear by the copy of said power of attorney hereto annexed, marked Exhibit 2, and made a part of this answer.

And this defendant, further answering, says that he admits that in consequence of the financial disasters of the country in the fall of 1873 said firm of Hoyt, Spragues & Co. and the said A. & W. Sprague Manufacturing Company became embarassed, and said Hoyt, Spragues & Co. suspended payment in New York, whereby the said A. & W. Sprague Manufacturing Company was also compelled to suspend payment, and afterwards did, on the first day of December, A. D. 1873, execute and deliver to this defendant a trust deed of all its property, bearing date on the first day of November, 1873, in trust and mortgage to secure such of its creditors as should,

189 within nine months from the date of said deed, bring in and surrender and discharge or agree to extend the time for the payment of their respective debts, and accept therefor the notes of said A. & W. Sprague Manufacturing Company, bearing even date therewith, and payable three years from Jan. 1, 1874, with interest thereafter payable semi-annually, at the rate of seven and three-tenths per centum per annum till the principal sum was paid, in which mortgage deed the said Amasa and William, individually and as copartners, and the said Mary Sprague and Fanny Sprague did also join, they all being stockholders in said A. & W. Sprague Manufacturing Company, and as such individually liable for all the debts; and the said Amasa and William being also indorsers upon the great mass of the outstanding liabilities of said A. & W. Sprague Manufacturing Company; and said A. & W. Sprague Manufacturing Company did also thereafterwards, on the sixth day of April, 1874,

execute and deliver to this defendant a general assignment of all its property, for the payment in full, if the assigned property proved sufficient, otherwise ratably, of all the claims of its creditors, which had then been or should thereafter, within said nine months, be brought in under said trust mortgage and extended for the term of time provided therein, and the notes secured thereby, as aforesaid.

Secondly. The residue to apply in full, if sufficient, otherwise ratably, in payment of all the other creditors of said A. & W. Sprague Manufacturing Company, and which deed of assignment did also provide, among other things, that this defendant might allow said A. & W. Sprague Manufacturing Company to run its mills and print-works, if this defendant deemed it for the best interest of the creditors so to do; under which provision, there having been no default under the mortgage, said A. & W. Sprague Manufacturing Company has remained in possession of its mills and print-
190 works, carrying on the business thereof and applying the profits of the same to the payment of the interest under the mortgage.

This defendant avers that within the said nine months, creditors representing debts to the amount of $8,717,450, being all but two of the creditors of said corporation, did come in under said trust mortgage and assent to its terms, and accept the extension mortgage notes thereunder, and thereupon did either surrender and discharge or agree to extend the time of payment of their original debts accordingly.

And this defendant avers that at and before the execution and delivery to this defendant of said trust mortgage deed, or ever until long after said first day of August, 1874, this defendant had not, nor, as he believes and avers, did any one of the said creditors so coming in under said mortgage deed, have any notice whatsoever of the claim or pretended rights and equities of the said complainant, now set up in his said bill. And this defendant insists that said creditors, so coming in under said trust mortgage deed, and assenting to its terms as aforesaid, and he, as their trustee thereunder, are and is *bona fide* purchasers of all of said estates and properties conveyed thereby, for a good and valuable consideration, and without notice of the claims or pretended rights and equities of the complainant aforesaid.

And this defendant avers, on information and belief, that said complainant became of full age on or about the sixteenth day of July, 1870, and had full opportunity to make or cause to be
191 made examination of the books of said corporation, in the exercise of his rights as a stockholder therein, said books being always open for his inspection. And this defendant, of his own knowledge, avers that after this defendant received said trust mortgage as aforesaid said complainant had examinations of the books of said corporation made in his behalf, from time to time, and that he had made sale to a *bona fide* purchaser for value of all his stock in said Quidnick Company, and has received the consideration therefor; and that never, until on or about the twenty-eighth day of April, 1875, did this defendant have any notice from the complain-

ant, or from any other source, of any of the pretended rights or equities set up in the complainant's said bill.

And this defendant avers that more than seven years had elapsed after said sixteenth day of July, 1870, before the filing of said bill.

And this defendant claims the benefit of each and all the matters aforesaid in the same manner and to the same extent as if he had pleaded the same and each of them in bar to said bill, or to so much thereof as the same would respectively cover, and as if he had demurred to said bill.

And this defendant, further answering, denies that he ever declined to furnish said complainant with any information or means of information within his knowledge, power, or custody, but, on the contrary thereof, avers that, to the knowledge of this defendant, after he took the trust aforesaid the said complainant had full access to the corporation books and papers, to examine and take abstracts from the same, by himself and by counsel, as fully as he saw fit.

And this defendant, further answering, says that as to all other matters set forth in the complainant's said bill of complaint this defendant has no knowledge whatever, and has no information as to the same save by the complainant's bill of complaint, and
192 leaves the complainant to prove the same as he may be advised.

As to the several interrogatories propounded to this defendant, being Nos. 19 and 20, the defendant says that the same are hereinbefore fully answered.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

ZECHARIAH CHAFEE.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

193 UNITED STATES OF AMERICA, }
Rhode Island District, Providence, } *ss.:*

In the city of Providence, on this third day of April, A. D. 1880, before me, a notary public duly commissioned in and for the State of Rhode Island, then personally appeared Zechariah Chafee, subscriber to the foregoing answer, and made oath that the statements

made in said answer as of his own knowledge are true, and those made therein as of his information and belief he verily believes to be true, and that the plea embodied in said answer is not interposed for delay and is true in point of fact.

Witness my hand and seal at Providence, in said district, the day and year aforesaid.

C. FRANK PARKHURST,
Notary Public.

This is to certify that, in our opinion, the plea embodied in the foregoing answer is well founded in point of law.

C. FRANK PARKHURST,
CHARLES HART,
JAMES TILLINGHAST,
BENJ. F. THURSTON,
Counsel for Defendant.

194 EXHIBIT 1.

Know all men by these presents that I, Edwin Hoyt, Jr., of the city of New York, for and in the consideration of the sum of thirty thousand four hundred dollars to me paid by Charles G. Francklyn, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said Edwin Hoyt, Jr., on the books of said company.

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles C. Francklyn, his executors, administrators, and assigns, forever.

In testimony whereof I have hereunto set my hand and seal this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK. }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally
195 appeared the within-named Edwin Hoyt, Jr., and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

196 EXHIBIT 2.

Know all men by these presents that, for value received, I, Edwin Hoyt, Jr., of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt — true and lawful attorney (with power of substitution), for me and in my name, stead, to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in my name in the capital stock of the Quidnick Company; and my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal, 9th December, 1873.

EDWIN HOYT, JR. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on this 9th day of December, A. D. 1873, before Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgments of deeds, &c., personally appeared the within-named Edwin Hoyt, junior, and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[Commissioner's Seal.]

CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, New York City.*

197 *Replication to Answer of Amasa Sprague.* (*Filed May* 3, 1880.)

The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of Amasa Sprague, respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respondent is uncertain, untrue, and insufficient to be replied unto by the repliant,

without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

Replication to Answer of William Sprague. (*Filed May* 3, 1880.)

198 The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of William Sprague, respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respondent is uncertain, untrue, and insufficient to be replied unto by the repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

Replication to Answer of Fanny Sprague. (*Filed May* 3, 1880.)

The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of Fanny Sprague, respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respond-
199 ent is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court

shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

Replication to Answer of Mary Sprague. (*Filed May* 3, 1880.)

The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of Mary Sprague, respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respondent is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver
200 and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

Replication to Answer of A. & W. Sprague M'f'g Co. (*Filed May* 3, 1880.)

The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of the A. & W. Sprague M'f'g Co., respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respondent is uncertain, untrue, and insufficient to be replied unto by these repliants, without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver

and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

201 *Replication to Answer of Zechariah Chafee, Trustee. Filed May 3d*, 1880.

The replication of Edwin Hoyt, by Charles G. Francklyn and William S. Hoyt, his next friends, complainant, to the answer of Zechariah Chaffee, respondent.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said respondent is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed, or denied is true; all which matters
202 and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

By his solicitors, BUTLER, STILLMAN & HUBBARD.

JAMES McKEEN,
T. G. STILLMAN,
WM. ALLEN BUTLER,
Of Counsel.

203 J. BOWERS LEE *et ux. v.* AMASA SPRAGUE *et al.*

EDWIN HOYT, by CHAS. G. FRANCKLYN and WM. S. HOYT, His Next Friends,
v.
AMASA SPRAGUE *et al.*

It is hereby stipulated and agreed that the testimony and depositions of Sam'l W. Clarke, Lyman B. Freeze, Duncan C. Mackinzee, Frederick S. Wells, Chas. G. Francklyn, Susan S. Francklyn, & Wm. S. Hoyt, heretofore taken in the suits in equity in this court, in which Chas. G. Francklyn & wife and Wm. S. Hoyt are complainants, and Amasa Sprague & others are respondents, be used and read in evidence in the two suits above entitled, and each of them with the same force and effect and subject to the same objections as if taken in these actions and in each of them.

BENJ. F. THURSTON,
Of Counsel for Def't.

Dated April 28th, 1881.

204 RHODE ISLAND DISTRICT, *ss*:

Circuit Court of the United States.

WM. S. HOYT, Complainant,
vs.
AMASA SPRAGUE *et als.*, Respondents.

CHARLES G. FRANCKLYN *et ux.*, Complainants,
vs.
AMASA SPRAGUE *et als.*, Respondents.

Deposition of SAM. W. CLARKE, on behalf of the complainants, taken before Samuel W. Peckham, examiner.

SAM. W. CLARKE, having been duly sworn before said examiner, testifies as follows:

(It is stipulated and agreed by and between the respective parties to the above-entitled suit that the deposition of Mary Sprague, taken under the notice hereto annexed, may be used on the hearing and in any proceedings in either of the above-entitled suits without being formally retaken in each of the above-named cases, and with the like effect as if taken separately in each. This stipulation shall also apply to the depositions of Sam. W. Clarke and of George B. Holmes.)

205 By Mr. BUTLER:

Q. 1. What office do you hold?

A. I am probate clerk of the town of Warwick.

Q. 2. How long have you been such clerk?

A. Eleven years, I think; I was first elected in June, 1853.

Q. 3. And you served continuously until what time?

A. Four years, and up to November 26, 1857; it was almost five years.

Q. 4. And you were again elected in 1866?

A. I was again elected in 1866, on the first Monday in June. I have held the office since continuously.

Q. 5. And in the interval, while you were not clerk, who was clerk?

A. Mr. Caleb R. Hill, of our town.

Q. 6. As such clerk, have you kept the records of, and the papers filed in, the probate court?

A. Yes, sir; they have been in my custody—all of them.

Q. 7. And have you here present the records of the court with you?

A. I have those that were named in the writ. I think I have them all. I have tried to have them all, at any rate.

Q. 8. And also all the papers filed in proceedings relating to the administration of the estate of William Sprague and the guardianship of the children of Edwin Hoyt?

A. Yes, sir—as named in the summons that was left at my house yesterday.

Q. 9. Now, will you produce the record relating to the administration of the estate of William Sprague?

A. The narrative record is what you mean, is it?

Q. 10. Yes, sir.

A. I have here the record of December 8, 1856.

Q. 11. Is that the first entry relating to the estate of Wm. Sprague that you find?

206 A. The first record that I find is the order appointing Mary Sprague administratrix; it says that "Mary Sprague be and she is hereby appointed."

Q. 12. The first record is that appointing Mary Sprague administrix?

A. Yes, sir; the 8th of December, 1856.

Q. 13. In what book and on what page is that?

A. That is in page 304 of what was then the current book; it is not numbered.

Q. 14. The book of probate proceedings?

A. Yes, sir.

Mr. BUTLER: Here are the originals. I propose to have copies of these.

Mr. THURSTON: I consent.

It is agreed that certified copies of these records, to be marked 1, may be annexed to the deposition with like effect as if transcribed in the deposition from the original.

Q. 15. By that order John H. Clarke, George B. Holmes, and Orray Taft were appointed appraisers to appraise the estate of William Sprague; is that so?

A. Yes, sir; "John H. Clarke, of Warwick; George B. Holmes and Orray Taft, of Providence, appraisers, to appraise the estate of the said William Sprague, deceased."

Q. 16. Which of those gentleman is now living, if either?

A. Mr. Holmes is alone living.

Q. 17. You, of course, are familiar with the ordinary course of procedure in a probate court?

A. Yes, sir; I think so—in our town.

Q. 18. According to the ordinary course of proceedings in what way would the appraisers be notified of their appointment?

A. By sending to them of the warrant.

207 Q. 19. Have you any present recollection whether or not either of these appraisers were notified of their appointment?

A. I have none; but I don't doubt of it.

Q. 20. You have no present recollection?

A. No, sir; it is a good while ago; I could not say.

Q. 21. In the ordinary course of proceedings how soon would the warrant be returned or the inventory of appraisement of the estate be filed?

A. Within three months is the ordinary rule—in fact that is statute law.

Q. 22. State whether any record of appraisement or any inventory was ever filed?

A. No, sir; I don't think it was—I will word that differently; I am unable to find anything that represents it.

Q. 23. After searching in your office?

A. Yes, sir.

Q. 24. And have you any recollection that any record of appraisal or any inventory was ever filed in this estate?

A. No, sir; no recollection.

Q. 25. The bond required by the order was filed, was it not?

A. Yes, sir.

Q. 26. When was that bond filed?

A. The bond was filed in the usual course; I don't know that I could say when exactly.

Q. 27. When, according to the record, were the letters of administration issued to Mrs. Sprague?

A. It is on page 3; that letter was issued on the 8th day of December, 1856.

Q. 28. And the original letters, I suppose, delivered to Mrs. Sprague?

A. Or some person representing her.

Q. 29. Now, with the exception of the record of the order appointing Mrs. Sprague administratrix, the record of the letters [of]
208 administration, and the bond, is there anything in the record of the probate proceedings relating to the administration of this estate of William Sprague?

A. To the best of my knowledge and belief, no; I have examined the records to find out.

Q. 30. Have you searched for papers filed by Mary Sprague, administratrix?

A. Yes, sir.

Q. 31. Do you find any with the exception of the bond referred to?

A. No, sir.

Q. 32. Is there any record of any accounting ever had or any account ever filed by Mrs. Sprague as administratrix?

A. I am unable to find anything of the kind.

Q. 33. There is not then?

A. No, sir.

Q. 34. Is there any record of any order or decree ever made by the probate court in reference to the estate of William Sprague, deceased, except what you have now produced. I mean in reference to the administration of his estate.

A. To the best of my information, no, and I have examined carefully, too; I would not go any further than that; I could not properly do so.

Q. 35. If there was any order on record or any paper filed it would be found in the record of proceedings which you have produced here and among the papers which you have produced?

A. Yes, sir.

Q. 36. Then, as I understand you, so far as the records and the

papers produced show, they being all in your office relating to this subject, there is no record of any act done by and there is no paper filed by Mary Sprague, administratrix, except what you have testified to.

A. That is correct.

Q. 37. Now, please produce the record of probate proceed-
209 ings relating to the guardianship of the minor children of Susan Hoyt, and state what they are.

A. The first one is December 8, 1856, page 307; the first petition is the petition of Edwin Hoyt, December 8, 1856.

(Copy annexed to be marked 2.)

Q. 38. It is on page 307 of the book of probate proceedings.

A. Yes, sir; I have it here.

Q. 39. The next proceeding is on the 22d of December, 1856, page 609, being an order by which the court granted leave to withdraw the petition presented December 8th.

A. Yes, sir.

(Copy to be annexed marked 3.)

Q. 40. And on the same day, as appears by the record, the same 22d of December, 1856, a petition was presented by Edwin Hoyt and Byron Sprague praying for the appointment of Mrs. Mary Sprague as guardian.

A. Yes, sir.

Q. 41. And an order made thereon?

A. Yes, sir, and an order made thereon continuing it with the usual notice.

(Copy to be annexed marked 4.)

Q. 42. The next record is of February 9, 1857?

A. Yes, sir; that was the date.

Q. 43. An order reciting due notice having been given, and appointing Mrs. Mary Sprague guardian, on filing bond, with Byron Sprague and Edwin Hoyt as sureties in $12,500; is that correct?

A. Yes, sir; it sets forth the fact that the notice was given.

Q. 44. And appointing John H. Clarke, George B. Holmes, and Orray Taft appraisers of the infant's estate; that is so, is it?

A. Yes, sir; John H. Clarke, George B. Holmes, and Orray Taft were appointed appraisers.

Q. 45. A like order was made in respect to each one of the
210 four minor children of Mrs. Hoyt, was there not? There is a distinct order as to each child, if I read it right.

A. Yes, sir; they are separated; Miss Sarah appears first; Susan Hoyt, William S. Hoyt, and Edwin Hoyt, Jr., follow. The orders are found on pages 318 and 319.

(Copy of these orders to be annexed marked 5.)

Q. 46. Have you any present recollection of notifying either of the appraisers of their appointment?

A. No, sir; I have no recollection of it whatever; it is a great while ago.

Q. 47. Is there any record of appraisement or any inventory filed in the office by these appraisers, Clarke, Holmes, and Taft?

A. No, sir; I think not; not under that original appointment; I think not.

Q. 48. So far as your record and papers on file in your office show, those appraisers never acted?

A. It is so long ago that I don't want to say; I think they never acted.

Q. 49. You have made search in your office for any papers relating to this matter, and do not find any inventory filed by those appraisers?

A. I searched, and did not find any.

Q. 50. Between the dates of February 9, 1857, and September 12th, 1863, is there any record of any proceedings relating to this guardianship?

A. No, sir; September 14, 1863, is the next record, which is an order made upon the petition filed September 12, 1863, of Mary Sprague, guardian.

Q. 51 In reference to the sale of the interest of the minors in certain real estate in Providence?

A. Yes, sir; this is in the probate proceedings, page 148 of the then current book of 1863.

(Copy to be annexed marked 6.)

211 Q. 52. Now when is the next record of any proceeding?

A. May, 1865; the next is the "petition of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr.," &c.; that is an order made upon the petition of Mary Sprague, as guardian, and authorizing her to convey the estate of the infants in the Quidnick Company to the Quidnick corporation, and also the estate of the infants in the property and effects of the firm of A. & W. Sprague to the A. & W. Sprague Manufacturing Company.

(Copy to be produced and marked 7.)

Q. 53. Do you produce the petition on which this order was made?

A. There is no date to this; it is addressed to the court as sitting on a certain day; I could not say as to that.

Q. 54. Is this petition on file in the clerk's office?

A. Yes, sir; that petition is on file; it belongs to my office; but it was in Mr. Hill's time (when he was clerk), and you see there is no date to the petition and no mark of its having been filed.

Q. 55. But it is among the records of your office?

A. Oh, yes, sir.

Q. 56. Please state whether, after search made, you find in your office any record or proof of the publication of the notice in the Manufacturers' and Farmers' Journal, referred to in the order marked Exhibit 7?

A. Oh, no, sir; it would not be there.

Q. 57. Do you find any?

A. No, sir: I do not.

(Copy of the petition to be annexed marked 8.)

[A.] Nowadays the notices are always pasted on the backs of the petitions, but in those days it was different.

Q. 58. Will you produce the bond filed by Mrs. Sprague pursuant to the order Exhibit 7?

212 A. This is in the guardianship matter; this is the one which I now produce; the date is August 5th, 1865; it is in Mr. Hill's handwriting.

(Copy to be annexed marked 9.)

Q. 59. State whether or not that is the bond and the only bond filed in the office by Mrs. Sprague in pursuance of the order Exhibit 7. There is no other bond than that, is there?

A. I find no other, and I have searched carefully, and this is Mr. Hill's file mark; I have no doubt it is all right; the date of the filing is August 5th, 1865.

Q 60. Now state what was the next proceeding, so far as the records and papers in your office show, relating to this matter of guardianship; the next paper filed appears from the file mark to have been filed June 25th, 1866.

A. I can only say that that is Mr. Hill's file mark.

Q. 61. And it is a warrant appointing John A. Gardner, Benjamin F. Thurston, and George W. Corey as appraisers of the real and personal estate of Sarah Hoyt, Susan S. Hoyt, William S. Hoyt, and Edwin Hoyt, Jr., minors? (Copy to be annexed marked 10.) Please state whether you find in the record of proceedings *my* petition or *other* preceding the issuing or authorizing the issuing of that warrant.

A. I do not find any petition or order; if there was a petition I will furnish a copy. (Copy to be annexed, if furnished, marked "11.") But I have examined the records carefully now and find no other.

Q. 62. Now, what is the next paper filed or the next entry of proceedings?

A. The next is on the 13th day of August, 1866, and relating to the accounts of Mrs. Sprague as guardian, the inventory of the appraisers appointed by warrant Exhibit 10, and the res-

213 ignation of Mrs. Sprague as guardian; Mrs. Sprague resigns and offers her account for settlement.

(Copies to be annexed marked "12.")

Q. 63. You produce the original accounts presented by Mrs. Sprague as guardian?

A. Yes, sir.

Q. 64. What is the date of the accounts?

A. June 25th, 1866; they are all the same, and the order of the court on the back is the 13th day of August, 1866, the presentation of the account undoubtedly preceding the letter of resignation.

Q. 65. The resignation of Mary Sprague to which you have referred you produce, do you not?

A. Yes, sir; that is the instrument that was filed in my office.

Q. Q. 66. Is there any file mark on that to enable you to state when it was filed?

A. No, sir; it was not done in my time. (Copy of resignation annexed, marked "13.") The order accepting the resignation I find on page 327 under date of September 1st, 1866.

(Copy to be furnished and marked "14.")

Q. 67. Where is the petition praying for the appointment of William Sprague?

A. Here is the petition; it has a file mark in the handwriting of Mr. Hill, August 13th, 1866; it is a petition purporting to be signed "Edwin Hoyt, by John A. Gardner, his attorney," without date.

(Copy annexed marked "15.")

Q. 68. State whether you find accompanying the petition or on file any evidence of the appointment of Mr. Gardner as the attorney of Mr. Hoyt for the purpose of that petition.

A. I don't think there would be anything here to that effect.

214 Q. 69. You don't find any?

A. No, sir.

Q 70. What order was found upon that petition, and where?

A. That was on the 1st day of September, 1866.

Q. 71. You find orders on that petition appointing William Sprague guardian?

A. Yes, sir; "that said petition be and is hereby granted, and that said William Sprague be appointed," &c.

(Copies of those orders to be annexed marked "16.")

John A. Gardner, Benjamin F. Thurston, and George W. Corey were appointed appraisers in each instance.

The return of the appraiser is found on page 317 of the Record of Wills, signed by "John A. Gardner, Benjamin F. Thurston, and George W. Corey, appraisers," October 1st, 1866, with certificate annexed, signed "W. Sprague, guardian;" that the same is a true inventory of all the estate that came to his knowledge.

(Copies to be furnished and annexed marked "18.")

Q. 72. State whether or not there is any paper filed, or any record of proceedings, since October 1, 1866, up to the present moment relating to the guardianship of William Sprague of the children of Susan Hoyt.

A. I don't know that I could state that advisedly. You are asking me to swear to a good deal without a careful examination.

Q. 73. State what the result of your present examination is, and if you find any paper on record that can be produced. I only want to show that we have produced everything here that can be found; we want the whole record.

A. Could not you let that remain open and let me examine

further at home? I have not found any; if I do find any I
215 will furnish copies of the same. I find nothing further; if I do on further examination I will furnish a copy.

Q. 74. Mr. Clark, as I understand, the records now produced by you are from the proceedings of the town council of the town of Warwick, exercising probate jurisdiction?

A. Yes, sir; that is our organization.

Q. 75. State the number of members composing the town council during the period of time covered by those records?

A. Five.

Q. 76. Are they elected annually?

A. Yes, sir; on the first Monday in June of each and every year by popular vote.

Q. 77. There is no restriction on that popular vote, is there—no qualification of property?

A. No, sir.

Q. [78.] How is the time of meeting regulated during the time covered by these records?

A. The regular probate meetings of our town are fixed by town ordinance on the second Monday in every month.

Q. 79. According to the regular course of proceedings, how are special meetings called, or was there any way of calling a special meeting?

A. The ordinance is that it shall be called by warrant of the clerk, directed to the town sergeant, and served by him upon the members of the town council.

Q. 80. State how the meetings were convened in practice—whether the ordinance was followed or not.

A. I don't think it was in those times, sir.

Q. 81. Then state how a special meeting would be convened, according to the course of practice.

A. Anybody that felt an interest would go around and get them together in those times, but they do not do so now.

Q. 82. That was very apt to be the case, was it not?

216 A. Oh, yes, sir; it was done in that way more than any other.

Q. 83. Have you any knowledge, or means of knowledge, as to whether the provisions of the ordinance were complied with in reference to any special meeting, the record of which is in your book?

A. No; I have no means of knowing how that was entered.

Cross-examination waived.

The deposition having been read over to the witness, he desires to make the following additions thereto:

In further answer to 11th interrogatory, he says: I have since found, under date of November 10th, 1856, a record, a copy of which is hereto annexed, marked 19.

In further answer to the 50th interrogatory, he says: Since my answer to this interrogatory I have found a record, a copy of which is hereto annexed, marked 20; since answering interrogatory 61 I have made further examination, and have found a record, a copy of

which is hereto annexed, marked 21; I also wish to add that since my examination I have found records, copies of which are hereto annexed, marked 22.

SAM. W. CLARKE.

Subscribed before me October 26, 1876.

SAMUEL W. PECKHAM, *Examiner.*

217 EXHIBIT (1) CLARKE.

At a court of probate holden in and for the town of Warwick, on Monday, December 8th, A. D. 1856.

Upon consideration of the petition of Byron Sprague and Edwin Hoyt, praying that Mary Sprague, widow of William Sprague, late of Warwick, deceased, which petition was presented to the court November 10th, A. D. 1856, and then received and referred to this time, with an order of notice thereon, it appearing that notice has been given as ordered by the court, no person objecting, the court decreed that said petition be granted, and that said Mary Sprague be, and she is hereby, appointed administratrix of the estate of William Sprague, deceased, and directed the clerk to give her a letter of administration accordingly under seal of this court, the said Mary Sprague first giving, in the office of the clerk, her bond, with sureties in the sum of one hundred thousand (100,000) dollars, conditions to the faithful performance of the duties of administratrix, as aforesaid, and the court accepted and approved of Byron Sprague, of the city and county of Providence, in the State of Rhode Island, and Edwin Hoyt, of the city and county and State of New York, as such securities, and the court appointed John H. Clarke, of Warwick, George B. Holmes and Orray Taft, of said city of Providence, appraisers to appraise the estate of the said William Sprague, deceased.

EXHIBIT (2) CLARKE.

To the honorable court of probate of the town of Warwick, at their meeting, 2d Monday of December, A. D. 1856:

The undersigned would respectfully represent that his four minor children, to wit, Sarah Hoyt, Susan S. Hoyt, William S. Hoyt,
218 and Edwin Hoyt, now residents of the city, county, and State of New York, all under fourteen years of age, are, together with Byron Sprague, heirs-at-law of the estate of William Sprague, deceased, in right of their mother, Susan Hoyt, deceased; that said children are, as such heirs, possessed of certain estate, both real and personal, lying and being in the town of Warwick and other towns, in the State of Rhode Island. Wherefore he prays that Mary Sprague, widow of William Sprague aforesaid, may be appointed guardian of the estate or estates of said minor children situate in said State; and as in duty bound will ever pray.

Warwick, December 8th, A. D. 1856.

EDWIN HOYT.

At a court of probate holden in and for the town of Warwick, on December 8th, A. D. 1856.

The petition, of which the foregoing is a true copy, is presented to the court, whereupon said court decreed that said petition be received, and the further consideration thereof be postponed to Monday, the 9th day of February next, at one (1) o'clock post meridian, at the council-room in said Warwick, and that notice of the pending of such petition be given by publication once a week for six consecutive weeks in the Manufacturers' and Farmers' Journal, published in the city of Providence, and also by serving an attested copy of such petition upon the tenants in possession of any real estate of said minor children, if any there be, at least three weeks previous to the meeting of said court in February next.

EXHIBIT (3) CLARKE.

At a court of probate held in and for the town of Warwick, on Monday, December 22d, A. D. 1856.

Byron Sprague appeared in open court, and, in the name and on behalf of Edwin Hoyt, asked leave to withdraw the
219 petition of said Hoyt, which was presented to the court on the 8th day of the present month of December, praying that a guardian be appointed for the real and personal estate of his four minor children; whereupon the court decreed that he have leave to withdraw said petition.

EXHIBIT (4) CLARKE.

To the hon. court of probate of the town of Warwick, at their meeting on Monday, the 22d day of December, A. D. 1856:

The undersigned would respectfully represent that the four minor children of Edwin Hoyt, one of the undersigned, to wit, Sarah Hoyt, Susan S. Hoyt, William S. Hoyt, and Edwin Hoyt, Jun., now residents of the city, county, and State of New York, all under fourteen years of age, are, together with the undersigned, Byron Sprague, heirs-at-law of the estate of the Hon. William Sprague, late of Warwick, but now deceased, in right of their mother, Susan Hoyt, deceased; that said children are, as such heirs, possessed of certain estate, both real and personal, lying and being in the town of Warwick and other towns, in the State of Rhode Island: Wherefore they pray that Mary Sprague, widow of said William Sprague, may be appointed guardian of the estate or estates of said minor children, situate in said State of Rhode Island; and as in duty bound will ever pray.

Warwick, December 22d, A. D. 1856.

EDWIN HOYT,
By BYRON SPRAGUE.
BYRON SPRAGUE.

The petition, of which the foregoing is a true copy, is presented to

the court, whereupon it was decreed that said petition be re-
220 ceived, and the further consideration thereof be postponed to Monday, the 9th day of February next, at one (1) o'clock past meridian, at the council room, in Warwick aforesaid, and that notice of the pending of such petition be given by publication for six successive weeks in the Manufacturers' and Farmers' Journal, published in the city of Providence; also by serving an attested copy of such petition upon the tenants in possession of any real estate of said minor children, if any there be, at least three (3) weeks previous to the meeting of said court in February next, as aforesaid, and also by posting up in some conspicuous place in the office of the town clerk of the town of Warwick aforesaid an attested copy of said petition with a copy of this decree of notice thereon.

EXHIBIT (5) CLARKE.

At a court of probate holden in and for the town of Warwick on Monday, February 9th, A. D. 1857.

Upon consideration of the petition of Edwin Hoyt, by Byron Sprague, and Byron Sprague, which was presented to the court December 22d, 1856, received and referred to this time for consideration, with an order of notice therein, which petition prays that Mary Sprague, widow of William Sprague, deceased, may be appointed guardian of the estate or estates of William S. Hoyt, a minor, it appearing that notice of the pendency thereof has been given, as ordered by this court, and no person objecting, the court decreed that the prayer of said petition be granted, and that Mary Sprague be, and she is hereby, appointed guardian of the estate and estates, both real and personal, of said William S. Hoyt, and ordered the clerk to give her a letter of guardianship, under seal of this court, accordingly, she, the said Mary Sprague, first filing in the office of said clerk her bond in the sum of twelve thousand five hundred
221 (12,500) dollars, conditioned to the faithful performance of the duties of said trust, with Byron Sprague, of the city and county of Providence, in the State of Rhode Island, and Edwin Hoyt, of the city, county, and State of New York, as sureties, and John H. Clarke, George B. Holmes, and Orray Taft be appointed appraisers.

At a court of probate holden in and for the town of Warwick on Monday, the 9th day of February, A. D. 1857.

Upon consideration of the petition of Edwin Hoyt, by Byron Sprague, and Byron Sprague, which was presented to the court Dec. 22d, A. D. 1856, received and referred to this term for consideration, with an order of notice thereon, which petition prays that Mary Sprague, widow of William Sprague, late of Warwick, deceased, may be appointed guardian of the estate and estates, both real and personal, of Su-an. S. Hoyt, a minor, it appearing that notice of the pendency thereof has been given, as ordered by the court, and no person objecting, the court decreed that the prayer of said petition

be granted, and that said Mary Sprague be, and she is hereby, appointed guardian of the estate and estates, both real and personal, of the said Susan S. Hoyt, and ordered the clerk to give her a letter of guardianship, under seal of this court, accordingly, she, said Mary Sprague, first filing in the office of the said clerk her bond in the sum of twelve thousand five hundred (12,500) dollars, conditioned to the faithful performance of the duties of said trust, with Byron Sprague, of the city and county of Providence, in the State of Rhode Island, and Edwin Hoyt, of the city, county, and State of New York, as sureties, and John H. Clarke, George B. Holmes, and Orray Taft were appointed appraisers.

At a court of probate holden in and for the town of Warwick on Monday, February 9th, A. D. 1857.

Upon consideration of the petition of Edwin Hoyt, by Byron Sprague, and Byron Sprague, which was presented to the
222 court December 22d, A. D. 1856, received and referred to this time for consideration, with an order of notice therein, which said petition prays that Mary Sprague, widow of William Sprague, late of Warwick, deceased, may be appointed guardian of the estate and estates, both real and personal, of Edwin Hoyt, Jr., a minor, it appearing that notice of the pendency thereof has been given, as ordered by the court, and no person objecting, the court decreed that the prayer of said petition be granted, and that said Mary Sprague be, and she is hereby, appointed guardian of the estate and estates, both real and personal, of said Edwin Hoyt, Jr., and ordered the clerk to give her a letter of guardianship, under the seal of this court, the said Mary Sprague first filing her bond in the office of said clerk in the sum of twelve thousand five hundred (12,500) dollars, conditioned to the faithful performance of the duties of said trust, with Byron Sprague, of the city and county of Providence, in the State of Rhode Island, and Edwin Hoyt, of the city, county, and State of New York, as sureties, and John H. Clarke, George B. Holmes, and Orray Taft be appointed appraisers.

EXHIBIT (6) CLARKE.

At a court of probate holden in and for the town of Warwick on Monday, September 14th, A. D. 1863.

Whereas the General Assembly, at its January session, A. D. 1863, authorized and empowered Mary Sprague, of Warwick, guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, children of Susan Hoyt, deceased, to make conveyance of all the interest and estate of said minors in and to the mansion-house and grounds, in the city of Providence, occupied
223 by the family of William Sprague, deceased, to Byron Sprague, but with the proviso that the said Mary Sprague should first execute and deliver to the court of probate of the town of Warwick a bond with sureties and in the penal sum, to be approved by said court conditioned for the investment, in the names and for the use

of said minors, in real estate or in corporote stock of the full cash value of such interest at the time of conveyance; and whereas the said Mary Sprague, in her capacity as guardian, with Byron Sprague and Edwin Hoyt as sureties, did, on the 20th day of July, 1863, execute a bond in the penal sum of forty thousand dollars, and deliver the same to this court, which bond is fully approved by the court, and is conditioned as required by the resolution of the General Assembly above referred to; and whereas it has been made to appear to this court that the interest of said Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, in said property mentioned in said resolution, is the sum of twenty-six thousand two hundred and fifty dollars, as appears by two disinterested persons; and whereas the said Mary Sprague, in her capacity as guardian of said minor children, has, for the consideration of twenty-six thousand two hundred and fifty dollars, paid her by the said Byron Sprague on the 21st day of July, 1863, made conveyance of all the interest and estate of said minor children in and to said premises and property mentioned in said resolution, as authorized and empowered so to do; and whereas the said Mary Sprague has made it appear to this court that she has invested the full sum of money by her received for said conveyance in 490 shares of the capital stock of the Bank of Commerce, in the city of Providence, in the names and for the use of said minors, which said shares of stock were, at the time of conveyance, of the full cash value of said interest by her deed conveyed: Upon consideration thereof it is ordered, adjudged, and decreed by this court that the condition of the said bond executed by the said Mary Sprague, as guardian, and
224 by Byron Sprague and Edwin Hoyt as sureties, for the investment of the proceeds of the sale of the interest of said minor children in the premises and property mentioned in said resolution of the General Assembly, has been fully complied with and satisfied.

EXHIBIT (7) CLARKE.

At a special court of probate holden in and for the town of Warwick August 5th, A. D. 1865.

The petition of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan Sprague Hoyt, deceased, in writing, praying that she may be by this court authorized, in her capacity as guardian of said minors, to exchange the interest which said minors have in the property, assets, and effects of the firm of A. & W. Sprague and of the firm of the Quidnick Company for its equivalent value in the capital stock of the corporated companies of the A. & W. Sprague Manufacturing Company and the Quidnick Company, is presented to this court, and it appearing that said petition was filed in the office of the clerk of this court on the 18th day of July last, and that the clerk, on the application of said Mary Sprague, has given notice to all persons interested by advertisement of such notice in the Manufacturers' and Farmers' Journal for fourteen days, once a week,

and such mode of notice on said petition being satisfactory, said petition is read, and no person appearing to object, upon consideration thereof, it is ordered, adjudged, and decreed that the prayer of said petition be granted, and that said Mary Sprague, as such guardian, is adjudged to have complied in all respects with the condition imposed by the General Assembly by its resolution upon her petition to make conveyance of the interest of such minors passed at the January session, A. D. 1863.

225 And it is furthermore ordered, adjudged, and decreed upon the petition of the said Mary Sprague, as guardian aforesaid in their behalf, that she be, and she is hereby, authorized and fully empowered to make conveyance of all the estate, right, title, interest, and property which Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, have in and to the property, assets, rights, credits, and effects of the firm known as the Quidnick Company to the Quidnick Company, incorporated by the General Assembly, for the sum of sixty-five thousand three hundred and fifty-three $\frac{32}{100}$ dollars in the capital stock of the said incorporated Quidnick Company, and invest the same in such numbers of shares thereof as shall make the interest of said minors to the whole capital stock of the company in the same proportion as their interest before such transfer and conveyance bore to the whole property of the firm of the Quidnick Company; and it is further ordered, adjudged, and decreed that the said Mary Sprague, guardian as aforesaid of said minors, be, and she is hereby, authorized and fully empowered to make conveyance of all the estate, right, title, interest, and property which Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, have in and to the property, assets, rights, credits, and effects of the firm of A. & W. Sprague to the A. & W. Sprague Manufacturing Company, incorporated by the General Assembly, for the sum of six hundred and fifty-two thousand seven hundred and fifty-three $\frac{68}{100}$ dollars in the capital stock of the said incorporated company, and to invest the same in such number of shares thereof as shall make the interest of said minors to the whole capital stock of the company in the same proportion as their interest before their transfer and conveyance bore to the whole property of the firm of A. & W. Sprague; that said Mary Sprague give bond, and Edwin Hoyt, as principals, with

226 Byron Sprague and William Sprague as sureties, in the penal sum of ten thousand dollars, with condition that the said Mary, as guardian of the said Edwin Hoyt, Jr., Sarah Hoyt, and William S. Hoyt, will invest the full amount of the full value of the interest of said minors in the firm proportion of the Quidnick Company and of A. & W. Sprague Manufacturing Company in the capital stock of the corporation chartered under these names respectively.

EXHIBIT (8) CLARKE.

To the honorable the court of probate of the town of Warwick:

The petition of Mary Sprague, of Warwick, in the county of Kent, respectfully represents:

That she is, by the appointment of this honorable court, the guardian of the estates of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased.

That her said wards are largely interested in the manufacturing property belonging to the firm of A. & W. Sprague, and are also the owners of a large interest in the property of the Quidnick Company, a copartnership for manufacturing purposes, in which the firm of A. & W. Sprague are the principal owners and are the managers.

And she further represents that, in view of the contemplated organization of two manufacturing corporations under the names of the A. & W. Sprague Manufacturing Company and the Quidnick Company, which were to hold respectively the manufacturing properties and effects which belonged to the firms above mentioned, she applied to the General Assembly for leave, as the guardian of said minor children, to make, execute, and deliver to such corporations, when organized, full conveyances of the right, title, and in-
227 terest of her said wards in and to the properties to be transferred to such corporations, and the General Assembly did, at its January session, A. D. 1863, grant her said petition, and did authorize and empower her, in her said capacity, to make, execute, and deliver to such corporations, when organized, full conveyances of all right, title, and interest of her said wards in and to the properties to be transferred to such corporations; and the said General Assembly did declare that such conveyances should be deemed and held as valid and effectual in law and in equity to vest the title of said minors in any such corporation or corporations as though the same had been executed by said minors after attaining to their majority.

But the General Assembly impose the condition that, before the delivery of any such conveyance, the said Mary Sprague should execute and deliver to the court of probate of Warwick such bond or bonds, with herself and Edwin Hoyt as principals, and with such sureties and in such penal sums as the said court should require, with condition to invest the full amount of the interest of such minors in the properties to be conveyed to such corporations in the capital stock of the said corporations in the names and for the use and benefit of said minors.

And your petitioner represents that the corporation of the A. & W. Sprague Manufacturing Company and the corporation of the Quidnick Company are now duly organized, and it becomes necessary to make conveyance of the interests of her said wards in and to the firms of A. & W. Sprague and the Quidnick Company to said corporations; and she therefore prays your honorable body to approve of the bond herewith tendered, in compliance with the resolution of the

General Assembly, or to make such order or direction in reference thereto as shall seem to be proper to your honors.

And whereas, also, the said Mary Sprague is advised that your honorable body have full jurisdiction over applications of
228 guardians for leave to sell the property of their wards for the purpose of making for them a more advantogeous investment;

And whereas your petitioner has also been advised that it is desirable to have, in a matter of so great consequence to her wards, the authority and approval of your honorable body for any sale or change of condition of their property, in addition to the authority conferred upon her by the resolution of the General Assembly before referred to;

And whereas it will be greatly for the benefit of her said wards that the interest which they have in the properties belonging to the firm of A. & W. Sprague and to the Quidnick Company should be exchanged for their values in a definite number of shares of the capital stock of corporations owning the same properties which the said firm held and managed, and thereby enable the other estate of her said wards to be unaffected by any chances which may befall the business of manufacturing goods in which this portion of their estate is invested;

And whereas all parties interested in the property of the firm of the Quidnick Company and in the property of the firm of A. & W. Sprague have heretofore agreed in writing that the value of the interest of each party in the properties of such firms respectively should be determined by Benj. F. Thurston and John A. Gardner, Esquires, referees chosen by the parties, and said referees have fulfilled their appointment and made their report to the parties, defining the value of the interest of each in the properties of said firm respectively;

And whereas it appears from the report of said referees that the interest of your petitioner's wards in and to the property of the firm of A. & W. Sprague amounted, on the 31st day of March, A. D. 1865, to the sum of $652,753.68, and that their interest in and to the property of the firm of the Quidnick Company amounted on the same day to the further sum of $65,353.23;

229 And whereas corporations under the names of the A. & W. Sprague Manufacturing Company and the Quidnick Manufacturing Company have been organized pursuant to the authority contained in charters heretofore granted by the General Assembly, which corporations, it is intended, shall hold respectively the same properties, assets, and effects which have heretofore been held by the partnerships under the name of A. & W. Sprague and the Quidnick Company, and each of the parties interested in said copartnership have agreed to transfer all their right, title, and interest in the properties of such copartnership to said corporations respectively, and to receive therefor the equivalent value of their interests in the stock of such corporations:

Now, therefore, in view of the premises, and of the greater convenience and safety with which such property can be managed when in the form of a stock in a corporate company and of the benefit

and advantage which will otherwise accrue to her said ward's estate:

Your petitioner prays that she may be authorized and fully empowered by this honorable court to make sale of all the right, title, interest, and property of her said wards, the said Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, in and to the property, rights, credits, and effects of the firm of A. & W. Sprague, as the same was at the close of business upon the 31st day of March, A. D. 1865, with all additions thereto and increase thereof to the date of conveyance to the A. & W. Sprague Manufacturing Company, a corporation created by the General Assembly of the State of Rhode Island, upon receiving from such corporation in full satisfaction for such conveyance the sum of $652,753.68 in the capital stock of said corporation, so that the interest of said minors in the capital stock of said corporation shall bear the same proportion to the whole capital
230 stock of the company as their interest in the property of the firm of A. & W. Sprague, as ascertained to have been on the 31st day of March, 1865, bore to the whole property of said firm upon said day.

And that she may in like manner be authorized and empowered to make sale of all the right, title, interest, and property of her said wards in and to the property, rights, credits, and effects of the firm of the Quidnick Company, as the same was at the close of business upon the 31st day of March, A. D. 1865, with all the additions thereto and increase thereof to the date of conveyance to the corporation heretofore created by the General Assembly with the name of the Quidnick Company, upon receiving from such corporation, in full satisfaction for such conveyance, the sum of $65,353.23 in the capital stock of said corporation, so that the interest of said minors in the capital stock of said corporation shall bear the same proportion to the whole capital stock of the company as their interest in the property of the firm of the Quidnick Company, as ascertained to have been on the 31st of March, 1865, bore to the whole property of said firm.

And will ever pray.

MARY SPRAGUE, *Guardian.*

EXHIBIT (9) CLARKE.

Know all men by these presents that we, Mary Sprague, of Warwick, in the county of Kent, and Edwin Hoyt, of the city, county, and State of New York, as principals, and Byron Sprague, of the town of Warwick and county of Kent, in the State of Rhode Island, and William Sprague, of South Kingston, in said State, as sureties, are holden and firmly bound unto the court of probate of Warwick
in the penal sum of ten thousand dollars, to the payment of
231 which we bind ourselves, our several and respective heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this fifth day of August, A. D. eighteen hundred and sixty-five.

The condition of the foregoing obligation is such that whereas the said Mary Sprague is guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan (Sprague) Hoyt, deceased, and has applied for and obtained authority from the General Assembly and from the court of probate of Warwick to make sale and conveyance of all the estate, right, title, and interest of said minors in and to the properties of the firm of the Quidnick Company and of the firm of A. & W. Sprague to the corporations of the Quidnick Company and the A. & W. Sprague Manufacturing Company respectively:

Now, if the said Mary Sprague shall invest the amount of the full value of the interest of such minors in such firm properties in the capital stock of said incorporated companies respectively, so that the interest of such minors shall bear the same proportion to the whole capital stock of such companies respectively as their interests before such sale and conveyance bore to the whole properties of such firms respectively, then this obligation shall be void; otherwise of full force and virtue.

MARY SPRAGUE. [SEAL.]
EDWIN HOYT. [SEAL.]
BYRON SPRAGUE. [SEAL.]
WM. SPRAGUE. [SEAL.]

In presence of—
NEHEMIAH KNIGHT,
J. B. NONES,
GEO. W. CORY,
[As] to signature of Byron Sprague.

232 NEHEMIAH KNIGHT,
J. B. NONES,
As to Edwin Hoyt.

BENJ. F. THURSTON,
JOHN A. GARDNER,
As to Mary Sprague—as to signature of Wm. Sprague.

[Stamp cancelled. W. Sprague, Aug. 5, 1865.]

Words "as the same was on the 31st day of March, A. D. 1865," on the first page, erased before execution; also the name of William Sprague inserted as surety, and the date changed from July 17th to August 5th, before signing.

EXHIBIT (10) CLARKE.

Guardian's Appraiser Warrant.

THE STATE OF RHODE ISLAND, }
And Providence Plantation, Kent, } *sc.:*

[SEAL.] By the court of probate of the town of Warwick, in the county of Kent, and State aforesaid.

To John A. Gardner, Benjamin F. Thurston, and George W. Cory, all of the city and county of Providence, in said State, Greeting:

You are hereby appointed and empowered as three suitable persons to take an inventory of all the real and personal estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and Wm. S. Hoyt, minors, and according to your best skill and judgment truly and justly to appraise the same as soon as may be in dollars and cents, and according to the present value thereof, being first sworn or affirmed to the faithful discharge of that trust; and when you shall
233 have completed said inventory as aforesaid you are to return the same, together with this warrant, with your doings thereon, to the office of the clerk of said court, or to seal up and deliver the same to Mary Sprague, who has been appointed by said court guardian of the estate of Susan S., Sarah, Edwin, and William S. Hoyt, minors, who is hereby accordingly directed so to return and exhibit the same, on oath, to said court of probate within three months from the time of taking upon herself that trust.

In testimony whereof we have caused the seal of said court to be hereunto affixed this eighteenth day of June, A. D. eighteen hundred and sixty-six.

C. R. HILL,
Dep. Probate Clerk.

PROVIDENCE, *sc:*

JUNE 25TH, A. D. 1866.

Then the above-named John A. Gardner, Benjamin F. Thurston, and George W. Cory personally appeared and made oath that they would faithfully and impartially discharge the trust reposed in them by the foregoing warrant.

Before me—

WALTER B. VINCENT,
Justice of the Peace.

[Stamp W. B. V., Jan. 25, 1866.]

(Endorsed:) Estate of Sarah and Susan S. Hoyt, &c., appraiser's warrant, June 25, 1866.

234 EXHIBIT (11) CLARKE.

To the honorable the court of probate for the town of Warwick:

Mary Sprague, of Warwick, guardian of the estate within this State of the persons hereinafter named, respectfully represents:

That on the 9th day of February, A. D. 1857, she was duly ap-

pointed by this court guardian of the estates of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, minor children of Edwin Hoyt, of the city and State of New York, and of Susan (Sprague) Hoyt, his wife, deceased.

That she accepted such appointment, and gave bond, as required by law, for the faithful performance of the duties of her office.

That the estate of her said wards consisted of an undivided interest in the homestead estate of the late William Sprague, situated in the city of Providence, and an undivided interest in the property and assets of the copartnership of A. & W. Sprague, which interest devolved upon the said wards as heirs-at-law of the said William Sprague and the right of their mother, Susan Sprague Hoyt, deceased.

That your petitioner, after consultation with the father of her said wards and with those whose judgment she confided in, concurred in the unanimous opinion which she received that it would be much more for the interest of her said wards to permit their interests in the manufacturing properties belonging to the firm of A. & W. Sprague to remain under the care of said firm, and be entitled to their *pro rata* share of the increase of the common property, rather than to remove such interest from the firm, all the other parties in interest having resolved to continue the business of manufacturing and printing cotton cloth in the same manner as the business had been conducted during the lifetime of the said William Sprague.

The result has justified the course which your petitioner determined upon, and now the interest of her said wards is many
235 times as valuable as it was when it came to her hands, and in the appointment of your honorable body.

She would further represent that recently the value of the property of the firm of A. & W. Sprague has been appraised, and the extent of interest of her said wards and its value in said property has been ascertained, and such interest of her said wards has been transferred by her, under the authority of a resolution of the General Assembly to that effect, and also under the authority of this court, to the corporations known as the A. & W. Sprague Manufacturing Co. and the Quidnick Company, and she now holds, in lieu of the same, a corresponding proportionate number of shares in the capital stock of said corporation.

And she further represents that inasmuch as she now desires to settle her accounts as such guardian she prays that appraisers may now be appointed to appraise the property of her said wards to this end, and that she may return an inventory of the same to this court.

MARY SPRAGUE.

EXHIBIT (12) CLARKE.

The undersigned, appointed by the hon. the court of probate of the town of Warwick to take an inventory of the personal estates of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, by virtue of the annexed warrant, respectfully report that they were

duly engaged upon the annexed warrant, and, having made careful examination, present the following as the inventory of all the personal estate of William S. Hoyt within this State which has come to their knowledge:

122	shares Nat. Bank of Commerce, $51	$6,222 00
1	U. S. 6% bond	108 50
2	N. Y. Prov. & Boston railroad bonds, $950	1,900 00
439	shares A. & W. Sprague M'f'g Co. stock, $402^{52}/_{35}$	176,707 82
236	123 shares Quidnick Co. stock, $155^{21}/_{3}$	19,091 20
	Cash	334 23
		$204,363 75
	Dividend due from A. & W. Sprague, as cash, March 31, 1865, with interest from said date	47,083 33
		$251,447 08

BENJ. F. THURSTON.
JOHN A. GARDNER.
GEORGE W. CORY.

PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, there personally appeared Mary Sprague, guardian of the estate of William S. Hoyt, and made oath that the inventory hereunto annexed is a just, true, and perfect inventory of all the goods, chattels, rights, and credits of the said William S. Hoyt which have come to her hands, possession, or knowledge.

Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. R. S. 5 cents.]

At a court of probate holden in and for the town of Warwick, on Monday, the 13th day of August, A. D. 1866.

Upon presentation of the inventory of the goods and chattels, rights, and credits of William S. Hoyt, minor ward of Mary Sprague, which said inventory amounts to two hundred fifty-one thousand four hundred forty-seven dollars and eight cents, it appearing
237 that said guardian has made oath to the truth thereof, and no person appearing to object, the court decreed that said inventory be received and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded August 20th, A. D. 1866.

The undersigned, appointed by the honorable the court of probate of the town of Warwick to take an inventory of the personal estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, by virtue of the annexed warrant, respectfully report: That they

were duly engaged upon the annexed warrant, and, having made careful examination, present the following as the inventory of all the personal estate of Edwin Hoyt, Jr., within this State which has come to their knowledge:

124 shares Nat. Bank of Commerce, $51	$6,324 00
1 U. S. 6% bond	108 50
2 N. Y., Prov. & Boston R. R. bonds, $950	1,900 00
439 shares A. & W. Sprague M'f'g Co. stock, 402^{525}	176,707 82
122 shares Quidnick Co. stock	18,935 98
Cash	387 44
	$204,363 74
Dividend due from A. & W. Sprague, as cash, March 31, 1865, with interest from that date	47,083 34
	$251,447 08

BENJ. F. THURSTON.
JOHN. A. GARDNER.
GEO. W. CORY.

238 PROVIDENCE, *ss:*

In the city of Providence, on the eleventh day of August, A. D. 1866, personally appeared Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., and made oath that the inventory hereto annexed is a just, true, and perfect inventory of all goods, chattels, rights, and credits of the said Edwin Hoyt, Jr., which have come to her hands, possession, or knowledge.

Before me—

BENJ. F. THURSTON,
Notary Public.

[United States revenue stamp, 5 cts.]

At a court of probate holden in and for the town of Warwick, on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the inventory of the goods and chattels, rights, and credits of Edwin Hoyt, Jr., minor ward of Mary Sprague, which said inventory amounts to two hundred fifty-one thousand four hundred forty-seven dollars and eight cents, it appearing that said guardian has made oath to the truth thereof, and no person appearing to object, the court decreed that said inventory be received and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded August 20th, A. D. 1866.

The undersigned, appointed by the honorable court of probate of the town of Warwick to take an inventory of the personal estate of Sarah Hoyt — Susan S. Hoyt, by virtue of the annexed warrant, respectfully report, that they were duly engaged upon the annexed

warrant, and, having made careful examination, present the
239 following as the inventory of all the personal estate of Susan S. Hoyt within this State which has come to their knowledge:

122 shares Nat'l B'k of Commerce, $51	$6,222 00
1 U. S. 6% bond	108 50
1 N. Y., Prov. & Boston R. R. bond	950 00
1 Quicksilver Co. bond	900 00
440 shares A. & W. Sprague M'f'g Co. stock, 402^{5255}	177,110 34
122 shares Quidnick Co. stock, 155^{213}	18,935 99
Cash	136 92
	$204,363 75
Dividend due from A. & W. Sprague, as cash, March 31, 1865, with interest from that date	47,083 33
	$251,447 08

BENJ. F. THURSTON.
JOHN A. GARDNER.
GEO. W. COREY.

PROVIDENCE, *ss:*

In the city of Providence, on the eleventh day of August, A. D. 1866, personally appeared Mary Sprague, guardian of the estate of Susan S. Hoyt, and made oath that the inventory hereto annexed is a just, true, and perfect inventory of all the goods, chattels, rights, and credits of the said Susan S. Hoyt which have come to her hands, possession, and knowledge.

Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. Rev. stamp, 5 cts.]

240 At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon presentation of the inventory of the goods, chattels, rights, and credits of Susan S. Hoyt, minor ward of Mary Sprague, which said inventory amounts to two hundred fifty-one thousand four hundred forty-seven dollars and eight cents, it appearing that the said guardian has made oath to the truth thereof, and no person appearing to object, the court decreed that said inventory be received and recorded.

Attest SAM. W. CLARKE,
Probate Clerk.

Recorded August 20th, A. D. 1866.

The undersigned, appointed by the honorable the court of probate of the town of Warwick to take an inventory of the personal estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, by virtue of the annexed warrant, respectfully report that they were duly engaged upon the annexed warrant, and, having

made careful examination, present the following as the inventory of all the personal estate of Sarah Hoyt within this State which has come to their knowledge:

122 shares Nat'l B'k of Commerce, $51	$6,222	00
4 U. S. 6% bond, 108^{2}	434	00
1 U. S. 6% $\frac{5}{20}$ bond	1,025	00
1 N. Y., Prov. & Boston R. R. bond	950	00
439 shares A. & W. Sprague M'f'g Co. stock, 402^{5235}	176,707	82
122 shares Quidnick Co. stock, 155^{213}	18,935	98
Cash	88	95
	$204,363	75
241 Dividends due from A. & W. Sprague, as cash, March 31, 1865, with interest from that date	47,083	33
	$251,447	08

BENJ. F. THURSTON,
JOHN A. GARDNER,
GEO. W. COREY.

PROVIDENCE, *ss*:

In the city of Providence, on the eleventh day of August, A. D. 1866, then personally appeared Mary Sprague, guardian of the estate of Sarah Hoyt, and made oath that the inventory of all the goods, chattels, rights, and credits hereto named is a just, true, & perfect inventory of the said Sarah Hoyt which have come to her hand, possession, or knowledge.

Before me— BENJ. F. THURSTON,
Notary Public.

[U. S. Rev. stamp, 5 cts.]

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon presentation of the inventory of the estate of Sarah Hoyt, minor ward of Mrs. Mary Sprague, which said inventory amounts to two hundred fifty-one thousand four hundred forty-seven dollars and eight cents, it appearing that said guardian has made oath to the truth thereof, no person appearing to object, the court decreed that said inventory be received and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded August 20th, A. D. 1866.

242 *Estate of Edwin Hoyt, Jr., in Account with Mary Sprague, Guardian.*

1866.

June 25.	To my services as guardian in managing the estate of the said Edwin Hoyt, Jr., including all my individual expense and disbursements incurred on account of the same from Feb'y 9, 1857, to date	$500 00
	" balance	203,884 52
		$204,384 52
	By ¼ of stock ac	$204,384 52
		$204,384 52
	By balance	$203,884 52
	" ¼ of $188,333.33, dividend due from A. & W. Sprague March 31, 1865, per report of B. F. Thurston and J. A. Gardner, referees.	

E. & E. Providence, June 25, 1866.

MARY SPRAGUE,
Guardian.

PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, there personally appeared Mary Sprague, guardian, and made oath that the above account by her rendered is true and just.

Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. R. S. for 5c.]

243 At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the account of Mrs. Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., a minor, which was presented to this court for allowance on Monday, July 9th, A. D. 1866, then received, and referred to this time for consideration, with an order of notice thereon, it appearing that notice has been given according to law, as ordered by the court, and that the said guardian had made oath to the truth thereof, and the court having examined the same and no person objecting, the court decreed that said account be received, allowed, and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded August 20, 1866.

Estate of Susan S. Hoyt in Account with Mary Sprague, Guardian.

1863.			
Nov'r 20.	To cash on ac. for clothing		$25 00
Dec'r 23.	" do. do.		16 53
1866.			
June 25.	" my services as guardian in managing the estate of the said Susan S. Hoyt, including all my individual expenses and disbursements incurred on account of the same from February 9, 1857, to date		500 00
	Balance		203,842 98
			$204,384 51
	By ¼ of stock ac.		$204,384 51
			$204,384 51

E. & E. Providence, June, 25, 1866.

MARY SPRAGUE,
Guardian.

By balance		$203,842 98
" ¼ of $188,333.33, dividend, due from A. & W. Sprague, March 31, 1865, as per report of B. F. Thurston & J. A. Gardner, referees.		

PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, there personally appeared Mary Sprague, guardian, and made oath that the foregoing account by her rendered is true and just.

Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. R. S. for 5c.]

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the account of Mary Sprague, guardian of the estate of Susan S. Hoyt, a minor, which was presented to this court for allowance on Monday, July 9th, A. D. 1866, then received and referred to this time for consideration, with an order of notice thereon, it appearing that notice had been given according to law, as ordered by the court, and the said guardian had made oath to the truth
245 thereof, and the court having examined the same, and no person objecting, the court decreed that said account be received, allowed, and recorded.

Attest:

SAM. W. CLARKE,
Probate Clerk.

Recorded August 20, 1866.

Estate of Sarah Hoyt in Account with Mary Sprague, Guardian.

1863.			
Nov. 30.	To cash on account for clothing		$25 00
Dec. 23.	" do do		16 54
1866.			
June 25.	To my services as guardian in managing the estate of the said Sarah Hoyt, including all my individual expenses and disbursements incurred on account of the same from Feb. 9th, 1857, to date		500 00
	Balance		203,842 97
			$204,384 51
	By ¼ of stock ac		$204,384 51
			$204,384 51
	By balance		$203,842 97

¼ of $188,333.33, dividend, due from A. W. Sprague, March 31st, 1865, per report of B. F. Thurston and J. A. Gardner, referees.

E. & E., Providence, June 25th, 1866.

MARY SPRAGUE,
Guardian.

246 PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, there personally appeared Mary Sprague, guardian, and made oath that the foregoing account by her rendered is true and just.

Before me—

BENJAMIN F. THURSTON,
Notary Public.

[U. S. R. S., 5 c.]

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the account of Mary Sprague, guardian of the estate of Sarah Hoyt, a minor, which was presented to this court for allowance on Monday, the 9th day of July, A. D. 1866, then received and referred to this time for consideration, with an order of notice thereon, it appearing that notice has been given according to law, as ordered by the court, and that said guardian had made oath to the truth thereof, and the court examined the same, and no person objecting, the court decreed that said account be received, allowed, and recorded.

(Attest:) SAM. W. CLARKE,
Probate Clerk.

Recorded Aug. 20th, 1866.

Estate of William S. Hoyt in Account with Mary Sprague, Guardian.

1866.			
June 25.	To my services as guardian in managing the estate of the said William		
247	S. Hoyt, including all my individual expenses and disbursements incurred on account of the same, from Feb. 9th, 1857, to date	$500	00
	Balance	203,884	52
		$204,384	52
	By ¼ of stock ac.	204,384	52
		204,384	52
	By balance	$203,884	52

By ¼ of $188,333.33, dividend, due from A. W. Sprague March 31st, 1865, per report of B. F. Thurston and J. A. Gardner, referees.
E. E. Providence, June 25th, 1866.

MARY SPRAGUE, *Guardian.*

PROVIDENCE, *ss:*

In the city of Providence, on this eleventh day of August, A. D. 1866, there personally appeared Mary Sprague, guardian, and made oath that the aforegoing account by her rendered is true and just.
Before me—

BENJ. F. THURSTON,
Notary Public.

[U. S. R. S. for 5c.]

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Upon consideration of the account of Mary Sprague, guar-
248 dian of the estate of William S. Hoyt, a minor, which was presented to this court for allowance on Monday, the 9th day of July, A. D. 1866, then received and referred to this time for consideration, with an order of notice thereon, it appearing that notice has been given according to law, as ordered by the court, and that said guardian had made oath to the truth thereof, and the court having examined the same, and no person objecting, the court decreed that said account be received, allowed, and recorded.

(Attest:) SAM. W. CLARKE,
Probate Clerk.

Recorded Aug. 29th, 1866.

EXHIBIT (13) CLARKE.

To the honorable court of probate of the town of Warwick, to be held at Apponaug on the second Monday of August, A. D. 1866:

The undersigned, guardian of Sarah Hoyt, Susan S. Hoyt, William S. Hoyt, and Edwin Hoyt, Jr., minor children of Edwin Hoyt and Susan Sprague Hoyt, deceased, herewith resigns her guardianship of said minor children, and requests that the same may be accepted by said court, and her successor appointed.

MARY SPRAGUE.

EXHIBIT (14) CLARKE.

At an adjourned meeting of the court of probate, holden in and for the town of Warwick, on Saturday, the first day of September, A. D. 1886.

Upon consideration of the resignation of Mary Sprague, guardian of the estate of Sarah Hoyt, minor daughter of Edwin Hoyt,
249 it appearing that notice of the pendency thereof has been duly given, as ordered by the court, and said guardian having settled her account, no person objecting, the court decreed that said resignation be accepted; and it is further ordered, adjudged, and decreed that said guardian be discharged from said trust.

Upon consideration of the resignation of Mary Sprague, guardian of the estate of William S. Hoyt, minor son of Edwin Hoyt, it appearing that notice has been given, according to the order of the court, and said guardian having settled her account, no person objecting, the court decreed that said resignation be accepted; and it is further ordered, adjudged, and decreed that said guardian be discharged from said trust.

Upon consideration of the resignation of Mary Sprague, guardian of the estate of Susan S. Hoyt, minor daughter of Edwin Hoyt, it appearing that notice of the pendency thereof has been duly given, as ordered by the court, and said guardian having settled her account, no person objecting, the court decreed that said resignation be accepted; and it is further ordered, adjudged, and decreed that said guardian be discharged from said trust.

Upon consideration of the resignation of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., minor son of Edwin Hoyt, it appearing that notice of the pendency thereof has been duly given, as ordered by the court, and said guardian having settled her account, no person objecting, the court decreed that said resignation be accepted; and it is further ordered, adjudged, and decreed that said guardian be discharged from said trust.

250. EXHIBIT (15) CLARKE.

To the honorable the town council of the town of Warwick, exercising probate court jurisdiction, at its session to be holden on the 13th day of August, 1866:

The undersigned respectfully represents that, on the 9th day of February, A. D. 1857, Mary Sprague, of Warwick, was, by your

honorable body, appointed guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, then minor children of Edwin Hoyt; that since said appointment one of said children, viz., Susan Hoyt, has attained the age of twenty-one years, the others still being under the age of twenty-one years; that said guardian of said children has, in writing, resigned her said trusts to the court appointing her, and asked for a decree accepting such resignation, and settling the guardian's account with said court; that the three children still minors are residents without the State, with the undersigned, their father, in New York city, and possess each a large property and estate in this State, which should be committed to the care and management of a suitable successor to said Mary Sprague, in the event of the acceptance of her resignation; that by reason of William Sprague, of South Kingston, being largely interested, and an active manager of the two corporations in which the property of said minors is chiefly invested, it is their desire, as well as the desire of the undersigned, their father, that he should be appointed to succeed said Mary Sprague in the guardianship of said estate.

Wherefore, for the reasons aforesaid, the undersigned prays that, in the event of the acceptance of the resignation of the said Mary Sprague as guardian of the estate of said minors, the said
251 William Sprague may be appointed her successor in the guardianship of the same, and, as in duty bound, will ever pray.

EDWIN HOYT,
By JOHN A. GARDNER,
His Attorney.

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Edwin Hoyt, of the city and State of New York, presents his petition, representing that his daughter, Susan S. Hoyt, a minor, is possessed of certain estate in Warwick and other parts of Rhode Island, and praying that William Sprague, of South Kingston, be appointed guardian of his said daughter's estate. Whereupon the court decreed that said petition be received and referred for consideration to Saturday, September 1st, A. D. 1866, at 2 o'clock p. m., at the council room, and directed the clerk to give notice of the pendency thereof by publication once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence, and by citation to be mailed to said Susan S. Hoyt's address.

EXHIBIT (16) CLARKE.

At an adjourned meeting of the court of probate holden in and for the town of Warwick on Saturday, the 1st day September, A. D. 1866.

Upon consideration of the petition of Edwin Hoyt, praying that William Sprague, of South Kingston, be appointed guardian of

the estate of Susan S. Hoyt, his minor child, it appearing that notice has been duly given of the pendency thereof, as ordered by the court, and no person appearing to object, the court decreed
252 that the prayer of said petition be granted, and the said William Sprague appointed guardian of said Susan S. Hoyt's estate, and directed the clerk to give him a letter of guardianship accordingly, he, the said William Sprague, first filing in the office of the clerk of the court his bond in the penal sum of two hundred and fifty thousand dollars with Edwin Hoyt, of New York, and Mary Sprague, of Providence, as sureties, and conditioned to the faithful performance of the duties of said trust. And the court appointed John A. Gardner, Benjamin F. Thurston, and George W. Corey appraisers to make an inventory of said ward's estate.

Upon consideration of the petition of Edwin Hoyt, praying that William Sprague, of South Kingston, be appointed guardian of the estate of Edwin Hoyt, Jr., his minor child, it appearing that notice of the pendency thereof has been given to said ward and all others interested, as ordered by the court, and no person appearing to object, the court decreed that the prayer of said petition be granted, and the said William Sprague appointed guardian of said Edwin Hoyt's (Jr.) estate, and directed the clerk to give him a letter of guardianship accordingly, he, the said Sprague, first filing in the office of the clerk of this court his bond in the penal sum of two hundred and fifty thousand dollars, with Edwin Hoyt, of New York, and Mary Sprague, of Providence, as sureties, conditional to the faithful performance of the duties of said trust; and the court appointed John A. Gardner, Benjamin F. Thurston, and George W. Corey, appraisers, to make an inventory of said ward's estate.

Upon the consideration of the petition of Edwin Hoyt, praying that William Sprague, of South Kingston, be appointed guardian of the estate of William S. Hoyt, his minor son, it appearing that notice has been given of the pendency thereof, as ordered by the court, and no person appearing to object, the court decreed that the prayer of said petition be granted, and the said William Sprague ap-
253 pointed guardian of said William Hoyt's estate, and directed the clerk to give him a letter of guardianship accordingly, he, said Sprague, first filing in the office of the clerk of this court his bond in the penal sum of two hundred and fifty thousand dollars, with Edwin Hoyt, of New York, and Mary Sprague, of Providence, as sureties, conditioned to the faithful performance of the duties of said trust; and the court appointed John A. Gardner, Benjamin F. Thurston, and George W. Corey, appraisers, to make an inventory of said ward's estate.

EXHIBIT (18) CLARKE.

Estate of Susan S. Hoyt. Inventory.

The undersigned, appointed by the honorable the court of probate for the town of Warwick to take an inventory of the real and personal estate of Susan S. Hoyt, by virtue of the annexed warrant, re-

spectfully report that they were duly engaged upon the annexed warrant, and having made careful examination present the following as the inventory of all the personal estate of the said Susan S. Hoyt within this State which has come to their knowledge:

122 shares National Bank of Commerce, $51		$6,222 00
1 U. S. 6% bond		108 50
1 N. Y., Prov. & Boston R. R. bond		950 00
1 Quicksilver Mining Co. bond		900 00
440 shares A. & W. Sprague M'f'g Co., $402^{5235}		177,110 30
122 shares Quidnick Company, $155^{213}		18,935 99
Dividend due from A. & W. Sprague, as cash, March 31st, 1865		47,083 34
254 Dividend due from A. & W. Sprague M'f'g Co., cash, September 1st, 1866	$6,600 00	
Less payments by above company	2,979 60	
		3,620 40
Dividend due from Quidnick Co., as cash, September 1st, 1866		1,220 00
		$256,150 56

No real estate.

JOHN A. GARDNER,
BENJ F. THURSTON,
GEO. W. COREY,
Appraisers.

Providence, October 1st, 1866.

To the honorable the court of probate of the town of Warwick:

The within is a true inventory of all the estate of Susan S. Hoyt which has come to my hands or knowledge.

W. SPRAGUE, *Guardian.*

PROVIDENCE, *ss:*

In the city of Providence, on this first day of October, A. D. 1866, there personally appeared William Sprague, guardian of the estate of Susan S. Hoyt, and made solemn oath that the within is a true inventory of all the estate of his said ward which has come to his knowledge, and that if he shall discover any other or further estate he will render a return of the same and an account to the court of probate for said Warwick.

GEO. M. DANIELS,
Notary Public.

[*National* Seal and U. S. R. S. for 5c.]

255 At a court of probate holden in and for the town of Warwick on Monday, October 8th, A. D. 1866.

The appraisers heretofore appointed on the estate of Susan S. Hoyt, minor daughter of Edwin Hoyt, of the city, county, and State

of New York, present an inventory of such estate; and it appearing that William Sprague, guardian of said minor's estate, had made oath that said inventory is a just and true one of said estate, the court decreed that said inventory be accepted and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded October 12th, 1866.

Guardian's Appraiser's Warrant.

THE STATE OF RHODE ISLAND, }
And Providence Plantations, Kent, } *ss:*

[Court Seal.]

By the court of probate of the town of Warwick, in the county of Kent and State aforesaid.

To John A. Gardner, Benjamin F. Thurston, and George W. Corey, all of the city and county of Providence, in said State, Greeting:

You are hereby appointed and empowered, as three suitable persons, to take an inventory of all the real and personal estate of Susan S. Hoyt, of the city, county, and State of New York, and, according to your best skill and judgment, truly and justly to appraise the same, as soon as may be, in dollars and cents, according to the present value thereof, being first sworn or affirmed to the faithful discharge of that trust; and when you shall have completed said inventory as aforesaid you are to return the same, to-
256 gether with the warrant, with your doings thereon, to the office of the clerk of said court, or to seal up and deliver the same to William Sprague, who has been appointed by said court guardian of the estate of said Susan S. Hoyt, who is hereby accordingly directed so to return and exhibit the same, on oath, to said court of probate within three months from the time of taking upon himself that trust.

In testimony whereof we have caused the seal of said court to be hereunto affixed this first (1st) day of September, A. D. eighteen hundred and sixty-six.

SAM. W. CLARKE,
Probate Clerk.

PROVIDENCE, *ss:*

October 1st, A. D. 1866.—Then the above-named John A. Gardner, Benjamin F. Thurston, and George W. Corey personally appeared and made oath that they would faithfully and impartially discharge the trust reposed in them by the foregoing warrant.

Before me—

GEO. M. DANIELS,
Public Notary.

[*National* Seal and U. S. R. S. for 5c.]

(Endorsed:) Estate of Susan S. Hoyt. Appraisers' warrant. October 1st, 1866.

Estate of Edwin Hoyt, Jr. Inventory.

The undersigned, appointed by the honorable court of probate for the town of Warwick to take an inventory of the real and personal estate of Edwin Hoyt, Jr., by virtue of the annexed warrant,
257 respectfully report, that they were duly engaged upon the annexed warrant, and, having made careful examination, present the following as the inventory of all the personal estate of the said Edwin Hoyt, Jr., within the State which has come to their knowledge:

124 shares Nat'l B'k of Commerce, $51		$6,324 00
1 U. S. 6% bond		108 50
2 N. Y., Prov. & Boston R. R. bonds, 950		1,900 00
439 sh's A. & M. Sprague M'f'g Co., 402^{5275}		176,707 82
122 sh's Quidnick Comp'y, 155^{213}		18,935 98
Dividend due from A. & W. Sprague as cash, March 31, 1865		47,083 34
Dividends due from A. & W. Sprague M'f'g Co., cash, Sept. 1, 1866	6,585 00	
Less pay'ts by above Co.	2,979 60	
		3,605 40
Dividends due from Quidnick Co. as cash, Sept. 1, 1866		1,220 00
No real estate.		
		$255,885 04

JOHN A. GARDNER,
BENJ. F. THURSTON,
GEO. W. COREY,
Appraisers.

PROV., *Oct.* 1, 1866.

To the hon. the court of probate of the town of Warwick:

The within is a true inventory of all the estate of Edwin Hoyt, Jr., which has come to my hands or knowledge.

W. SPRAGUE,
Guardian.

PROVIDENCE, *ss:*

In the city of Providence, on the 1st day of October, A. D. 1866, there personally appeared William Sprague, guardian of the estate of Edwin Hoyt, Jr., and made solemn oath that the within is a true inventory of all the estate of his said ward which has come to
258 his knowledge, and that if he should discover any other or further estate he will render a return of the same and an account to the court of probate for said Warwick.

GEO. M. DANIELS.

[Notarial Seal and U. S. R. S. for 5c.]

At a court of probate holden in and for the town of Warwick on Monday, Oct. 8, 1866.

The appraisers heretofore appointed to make an inventory of the personal and real estate, situate in Rhode Island, of Edwin Hoyt, Jr., minor, son of Edwin Hoyt, of the city, county, and State of New York, present an inventory of such estate, and it appearing that William Sprague, guardian of said estate, had made oath that said inventory is a just and true one of said estate, the court decreed that said inventory be accepted and recorded.

Attest: SAM. W. CLARKE,
Probate Clerk.

Recorded Oct. 12th, A. D. 1866.

Guardian's Appraisers' Warrant.

THE STATE OF RHODE ISLAND, }
And Providence Plantations, Kent, } *ss:*

[Court Seal.]

By the court of probate of the town of Warwick, in the county of Kent and State aforesaid.

To John A. Gardner, Benjamin F. Thurston, and Geo. W. Corey, all of the city and county of Providence, in said State, Greeting:

You are hereby appointed and empowered, as three suitable persons, to take an inventory of all the real and personal estate
259 of Edwin Hoyt, Jr., of the city, county, and State of New York, and, according to your best skill and judgment, truly and justly to appraise the same, as soon as may be, in dollars and cents, according to the present value thereof, being first sworn or affirmed to the faithful discharge of that trust; and when you shall have completed said inventory as aforesaid you are to return the same, together with this warrant, with your doings thereon, to the office of the clerk of said court, or to seal up and deliver the same to William Sprague, who has been appointed by said court guardian of the estate of Edwin Hoyt, Jr., who is hereby accordingly directed so to return and exhibit the same on oath to said court of probate within three months from the time of taking upon himself that trust.

In testimony whereof we have caused the seal of said court to be hereunto affixed this first (1st) day of September, A. D. eighteen hundred [and] sixty-six.

SAM. W. CLARKE,
Probate Clerk.

PROVIDENCE, *ss:*

Oct. 1, A. D. 1866.—Then the above-named John A. Gardner, Benjamin, F. Thurston, [and] George W. Corey personally appeared and

made oath that they would faithfully and impartially discharge the trust reposed in them by the foregoing warrant.

Before me—

GEO. M. DANIELS,
Public Notary.

[Notarial Seal and U. S. R. S. for 5c.]

(Endorsed:) Estate of Edwin Hoyt, Jr. Appraisers' warrant. Oct. 1, 1866.

260 *Estate of Wm. S. Hoyt.—Inventory.*

The undersigned, appointed by the honorable the court of probate for the town of Warwick to take an inventory of the real and personal estate of William S. Hoyt by virtue of the annexed warrant, respectfully report that they were duly engaged upon the annexed warrant, and, having made careful examination, present the following as the inventory of all the present estate of the said William S. Hoyt within this State which has come to their knowledge:

122 shares Nat'l B'k of Commerce, $51		$6,222 00
1 U. S. 6% bond		108 50
2 N. Y., Prov. & Boston R. R'd bonds, 950		1,900 00
439 sh's A. & W. Sprague M'f'g Co., 402^{5235}		176,707 82
123 sh's Quidnick Comp'y, 155^{224}		19,091 20
Dividend due from A. & W. Sprague on cash, March 31, 1865		47,083 33
Dividend due from A. & W. Sprague M'f'g Co., cash, Sept. 1, 1866	6,585 00	
Less pay'ts by above Co.	2,979 60	
		3,605 40
Dividend due from Quidnick Co. as cash, Sept. 1, 1866		1,230 00
		$255,948 25

No real estate.

JOHN A. GARDNER,
BENJ. F. THURSTON,
GEO. W. CORY,
Appraisers.

Prov., Oct. 1, 1866.

To the honorable the court of probate of the town of Warwick:

The within is a true inventory of all the estate of William S. Hoyt which has come to my hands or knowledge.

W. SPRAGUE, *Guardian.*

261 PROVIDENCE, *sc:*

In the city of Providence, on this 1st day of October, A. D. 1866, then personally appeared William Sprague, guardian of the estate of William S. Hoyt, and made solemn oath that the within is a true inventory of all the estate of his said ward which has come to his

knowledge, and that if he shall discover any other or further estate he will render a return of the same and an account to the court of probate for said Warwick.

[SEAL NOTARIAL.] GEO. M. DANIELS,
Public Notary.

[U. S. R. S. for 5c.]

At a court of probate holden in and for the town of Warwick on Monday, October 8, 1866.

The appraisers heretofore appointed by this court to make an inventory of the real and personal estate situate in Rhode Island of William S. Hoyt, minor son of Edwin Hoyt, of the city, county, and State of New York, present an inventory of such estate; and it appearing that William Sprague, guardian of such estate, had made oath that said inventory is a just and true one of said estate, the court decreed that said inventory be received and recorded.

Guardian's Appraisers' Warrant.

THE STATE OF RHODE ISLAND,
And Providence Plantations, Kent, &c.:

[Probate Seal.]

By the court of probate of the town of Warwick, in the county of Kent and State aforesaid.

To John A. Gardner, Benjamin F. Thurston, and George W. Cory, of the city and county of Providence, in said State, Greeting:

You are hereby appointed and empowered as three suitable
262 persons to take an inventory of all the real and personal estate of William S. Hoyt, of this city, county and State of New York, and, according to your best skill and judgment, truly and justly to appraise the same as soon as may be, in dollars and cents, according to the present value thereof, being first sworn or affirmed to the faithful discharge of that trust, and when you shall have completed said inventory as aforesaid you are to return the same, together with this warrant, with your doings thereon, to the office of the clerk of said court, or to seal up and deliver the same to William Sprague, who has been appointed by said court guardian of the estate of said William S. Hoyt, who is hereby accordingly directed so to return and exhibit the same on oath to said court of probate within three months from the time of taking upon himself that trust.

In testimony whereof we have caused the seal of said court to be hereunto affixed this 1st day of September, A. D. 1866.

SAM. W. CLARKE,
Probate Clerk.

PROVIDENCE, *sc:*

OCTOBER 1, 1866.

Then the aforenamed John A. Gardner, Benjamin F. Thurston, and George W. Corey appeared and made oath that they would

faithfully and impartially discharge the trust reposed in them by the aforegoing warrant.

Before me--

[NOTARIAL SEAL.] GEO. M. DANIELS,
Public Notary.

[U. S. R. S. for 5c.]

263 EXHIBIT (19) CLARKE.

At a court of probate holden in and for the town of Warwick on Monday, the 10th day of November, A. D. 1856.

Byron Sprague and Edwin Hoyt present their petition praying that Mary Sprague, widow of William Sprague, late of Warwick, deceased, be appointed administratrix on the estate of said William Sprague, deceased, intestate; whereupon the court decreed that said petition be received and the consideration thereof postponed to Monday, December 8th, A. D. 1856, at one o'clock, p. m.; and the court ordered that notice of the pendency thereof be given by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence.

EXHIBIT (20) CLARKE.

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of April, A. D. 1863.

The request of Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., Susan S. Hoyt, Sarah Hoyt, and William S. Hoyt, minor children of Susan Hoyt, deceased, that this court approve of a bond with sureties for the investment of the proceeds of the sale of real estate made under an act of the General Assembly passed at the January session, A. D. 1863, authorizing and empowering said Mary Sprague, guardian as aforesaid, in her said capacity to make conveyance of all the interest and estate of said minors in and to the mansion-house and grounds in the city of Providence, occupied by the family of William Sprague, deceased.

Upon consideration thereof it is ordered, adjudged, and decreed
264 that said Mary Sprague before making conveyance of said real estate first give bond in the sum of forty thousand dollars, with Byron Sprague, of Providence, and Edwin Hoyt, of the city of New York, as sureties, that she will invest the proceeds of such sale in the name of said minors in real estate or in corporate stocks of the full cash value of such interest at the time of said conveyance.

EXHIBIT (21) CLARKE.

At a court of probate holden in and for the town of Warwick on Monday, July 9th, A. D. 1866.

Mrs. Mary Sprague, guardian of the estate of Sarah Hoyt, Susan S. Hoyt, Edwin Hoyt, Jr., and William S. Hoyt, presents her inventory of her said ward's estate; whereupon the court decreed that the

further consideration thereof be postponed to Monday, the 13th day of August next, at one o'clock p. m., and directed the clerk to notify said Mary Sprague to present separate inventories, to wit, one for each child, in accordance with her appointment.

EXHIBIT (22) CLARKE.

Mary Sprague, guardian of the estate of Sarah Hoyt, a minor, presents her resignation of said trust; whereupon the court decreed that said resignation be received and referred for consideration to Saturday, the first day of September next, at two o'clock p. m., at the council room, and directed the clerk to give notice of the pendency thereof by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence.

Mary Sprague, guardian of the estate of Susan S. Hoyt, a minor, presents her resignation of said trust; whereupon the court decreed that said resignation be received and referred for consideration
265 to Saturday, the first day of September next, at two o'clock p. m., at the council room, and directed the clerk to give notice of the pendency thereof by publication, once a week, for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence.

Mary Sprague, guardian of the estate of Edwin Hoyt, Jr., a minor, presents her resignation of said trust; whereupon the court decreed that said resignation be received and referred for consideration to Saturday, the first day of September next, at two o'clock p. m., and directed the clerk to give notice of the pendency thereof by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence.

Mary Sprague, guardian of the estate of William S. Hoyt, a minor, presents her resignation of said trust; whereupon the court decreed that said resignation be received and referred for consideration to Saturday, the first day of September next, at two o'clock p. m., at the council room, and directed the clerk to give notice of the pendency thereof by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence.

Edwin Hoyt, of the city and State of New York, presents his petition praying that William Sprague, of South Kingston, be appointed guardian of the estate of his son, William S. Hoyt, a minor, situate in Warwick and other parts of Rhode Island; whereupon the court decreed that said petition be received and referred for consideration to Saturday, the first day of September, A. D. 1866, at two o'clock p. m., at the council room, and directed the clerk to give notice of the pendency thereof by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, in the city of Providence, and by citation to be mailed to said William S. Hoyt's address.

Edwin Hoyt, of the city and State of New York, presents his petition representing that his son, Edwin Hoyt, Jr., is possessed of

certain estate in Warwick and other parts of Rhode Island,
266 and is a minor, and praying that William Sprague, of South Kingston, be appointed guardian of his said son's estate; whereupon the court decreed that said petition be received and referred to Saturday, September first, at 2 o'clock p. m., at the council-room for consideration, and directed the clerk to give notice of the pendency thereof by the publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence, and by citation to be mailed to said Edwin Hoyt, Jr.'s, address.

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

Edwin Hoyt, of the city and State of New York, presents his petition representing that his daughter, Susan S. Hoyt, a minor, is possessed of certain estate in Warwick and other parts of Rhode Island, and praying that William Sprague, of South Kingston, be appointed guardian of his said daughter's estate; whereupon the said court decreed that said petition be received and referred for consideration to Saturday, September first, A. D. 1866, at two o'clock p. m., and directed that the clerk give notice of the pendency thereof by publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence, and by citation to be mailed to said Susas S. Hoyt's address.

GEORGE B. HOLMES, having been duly sworn before said examiner, testifies as follows:

By Mr. BUTLER:

Q. 1. You reside in Providence?

A. Yes, sir.

Q. 2. How long have you lived in Providence?

267 A. Fifty-two years and a little over.

Q. 3. What is your business?

A. Iron foundry and machine business.

Q. 4. Are you connected with any banking institutions here?

A. Yes, sir.

Q. 5. With which?

A. The Rhode Island National Bank; I am a director in.

Q. 6. Did you know Amasa and William Sprague, the elder, in their lifetime?

A. Yes, sir.

Q. 7. How long is it that you have known them and their descendants?

A. I have known them ever since 1824.

Q. 8. And have you had knowledge of the business conducted by them and by their successors?

A. Yes, sir; some; I could not avoid it.

Q. 9. Please state to what extent you have been in the habit of

acting as appraiser or valuer of estates in Providence and Rhode Island; I speak of your general knowledge as acting as appraiser.

(Objected to by Mr. Thurston as irrelevant and immaterial.)

A. I acted as appraiser between William and Byron.

Q. 10. I mean in general in reference to appraising estates?

A. I never did; only that one.

Q. 11. I mean in reference to your acting in the settlement of estates?

A. Well, I was a referee in the case between Byron and A. and W. Sprague, and I settled Byron Sprague's estate.

Q. 12. Any others?

A. No others.

Q. 13. The records of the probate court of the town of Warwick, Rhode Island, state that you were appinted with Orray Taft
268 and Mr. John H. Clarke to appraise the estate of William Sprague, the elder. Please state whether you ever received any notice of such appointment or ever acted as such appraiser.

A. No, sir.

Q. 14. The records of that court also show that you were appointed with the same gentlemen to appraise the estate of the infant children of Susan S. Hoyt, of whom Mary Sprague was guardian. Please state whether you ever received notice of such appointment.

A. I never did, sir.

Q. 15. Did you ever act as appraiser of the estate of William Sprague, deceased, or the estate of the minor children of Susan Hoyt, deceased?

A. I never did.

Q. 16. When did you first learn or receive information that you had been appointed appraiser of those estates respectively?

A. Oh, some four or five weeks ago, or something like that. Mr. McKeen told me; that is the first I ever heard of it.

Q. 17. Please state whether or not that was the first information you ever received upon the subject and from anybody?

A. Yes, sir; it was the very first.

Q. 18. Orray Taft and John H. Clarke are both deceased, are they not?

A. Yes, sir.

Q. 19. Did you have knowledge of the sale made by Byron Sprague in 1862 to A. and W. Sprague of his interest in the A. & W. Sprague manufacturing business?

(Objected to by Mr. Thurston as immaterial.)

A. Yes, sir; I was one of the appraisers.

Q. 20. What did you appraise?

(Objected to by Mr. Thurston as immaterial and irrelevant.)

A. We appraised all the property that they turned out to us. (Hands papers.)

269 Q. 21. Who acted with you, as your associate, as appraiser?

A. General Lyman B. Frieze.

certain estate in Warwick and other parts of Rhode Island,
266 and is a minor, and praying that William Sprague, of South Kingston, be appointed guardian of his said son's estate; whereupon the court decreed that said petition be received and referred to Saturday, September first, at 2 o'clock p. m., at the council-room for consideration, and directed the clerk to give notice of the pendency thereof by the publication, once a week for three successive weeks, in the Manufacturers' and Farmers' Journal, published in the city of Providence, and by citation to be mailed to said Edwin Hoyt, Jr.'s, address.

At a court of probate holden in and for the town of Warwick on Monday, the 13th day of August, A. D. 1866.

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(Objected to by Mr. Thurston as immaterial.)

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(Objected to by Mr. Thurston as immaterial and irrelevant.)

A. We appraised all the property that they turned out to us. (Hands papers.)

269 Q. 21. Who acted with you, as your associate, as appraiser?

A. General Lyman B. Frieze.

Q. 22. What connection had he with A. and W. Sprague?

A. Well, I don't know what capacity he did fill there. He had been there with them a number of years in their office attending to their business.

Q. 23. The object of the appraisement was to ascertain the then value in cash of the interest of Byron Sprague in the property and business of A. & W. Sprague?

(Objected to by Mr. Thurston as immaterial and irrelevant.)

A. Yes, sir; that was it.

Q. 24. It did not include the value of his interest in the Quidnick Company or in the homestead or mansion-house in Providence, did it?

A. (Reads from papers). "House in Providence and interest in Arctic and Quidnick not included;" it did not.

Q. 25. Please state what examination you made of the mills, machinery, and other property in connection with this appraisement; state how thoroughly you examined the mills.

Objected to by Mr. Thurston as above.)

A. Why, we examined it by going to every mill and getting a written statement from the superintendent, and examining it ourselves. We were a great while about it.

Q. 26. Was it several months?

A. We did not close it, I think, until the last day of April, 1863.

Q. 27. When did you begin it?

A. We began it some time along in September or October, 1862, I think. We went as far as we could go with that thing; we went as thoroughly as we could go.

Q. 28. Was the valuation based upon value before the war or after the war?

A. Based on values in 1862; that is, one year after the war began, but before things advanced.

270 Q. 29. Please state about the time when the great advance in prices took place.

A. After the latter part of 1862 and the first part of 1863 they began to advance, and continued for some time very rapidly.

Q. 30. Did you reduce your appraisal to writing?

(Objected to by Mr. Thurston as above.)

A. We did; there it is in your hand.

Q. 31. Is this paper now produced the original?

Mr. THURSTON: I object to the admissibility of the paper, but not to the contents of the paper being incorporated in the testimony of the witness without the annexing of a copy, if the testimony is admissible.

A. Yes, sir; that is the closing sheet, and the original one; one thing I should like to state before we go any further; after we got this done I consulted a man a long distance from Providence; there was a little unpleasant feeling between Byron and William, and to get the thing right I consulted with a man largely engaged in man-

ufacturing—a practical man—and we went clear through the whole stock and thought it was about right.

Q. 32. On this closing sheet these words and figures appear:

Real estate		$1,254,567 60	
Personal estate		2,605,150 47	
Bills on house		2,700 00	
Land, coventry, and W. Greenwich, and thatch lot		5,300 00	
Coupons		7,500 00	
			$3,875,218 07
271	Less, see Schedule I, prints, &c.	$130,619 38	
	Less, entered twice by mistake	204, 387 00	
			$335,006 38
			$3,540,211 69
One sixth is			$590,035 28
Add right of reversion			15,687 50
			$605,722 78

Q. 33. Does that sum of $605,722.78 represent the net value in cash as ascertained by you at the time of Byron and Spragues' interest in the A. & W. Sprague property and interest?

(Objected to by Mr. Thurston as immaterial.)

A. Yes, sir.

Q. 34. What was the amount of debts and liabilities of A. & W. Sprague at that time?

A. Five hundred thousand dollars was about what that estate owed at that time.

Q. 35. The debts were deducted before arriving at the $605,722.78?

A. Yes, sir.

Q. 36. In making the appraisal you took into account the outstanding inchoate right of dower of Mrs. Fanny Sprague and Mrs. William Sprague in the estate?

A. Yes, sir.

Q. 37. And you ascertained the value of that right of dower to be $215,000?

(Objected to by Mr. Thurston as above.)

A. Yes, sir.

Q. 38. And did you calculate the value of the reversion to the heirs and give to Byron his proportional share of that?

A. Yes, sir.

Q. 39. State whether or not you treated the entire real estate, irrespective of the question in whom the title stood, as the
272 property of A. & W. Sprague, subject to the inchoate right of dower of the two widows?

(Objected to by Mr. Thurston as above.)

A. We did not allow any dower out of the mills.

Q. 40. Those you treated as firm property?

A. Yes, sir.

(Objected to by Mr. Thurston as above.)

Q. 41. Not subject to any right of dower?

(Objected to by Mr. Thurston as above.)

A. No, sir.

Q. 42. Now, on what property then did you consider the right of dower to apply?

(Objected to by Mr. Thurston as above.)

A. On the real estate, land, houses, &c., we might have taken the mills, but that is so long ago that I have forgotten.

Q. 43. Whether you included the mills or not, you treated all the real estate as firm property?

A. Yes, sir.

Q. 44. Subject to right of dower in respect to such parcels as you thought the right of dower attached to?

A. Well, I can't state exactly (it is so long ago) how we came to that point; it was a great deal of work.

Q. 45. But you can state that you treated the entire property as firm property?

A. I suppose we did; yes, sir.

Q. 46. Did you make any examination of, or take into account, any interest of the children of Mrs. Hoyt?

(Objected to by Mr. Thurston as above.)

A. No, sir.

Q. 47. Who furnished you the information and data on which you made up your appraisal?

(Objected to by Mr. Thurston as above.)

A. The superintendents of each mill, and what we got from
273 the mills, and what we took from the books; we had access to their books.

Q. 48. Please state in what condition you found the books, as to the method in which they were kept?

A. Well, the books were kept rather loosely so far as regards the family.

Q. 49. What do you mean by that, Mr. Holmes?

A. Well, each one went and got what they wanted and charged it to the whole.

Q. 50. What books did they have?

A. They had a ledger, day-book and cash-book.

Q. 51. Were they kept in single or double entry?

A. They were kept in single entry; they never kept books in double entry until after the corporation.

Q. 52. State how you are able to say that?

A. Because I helped Charles W. Greene get the books into a state to go into a double-entry shape.

Q. 53. Can you state whether or not the books of A. & W. Sprague contained separate accounts with the different members of the family or not?

A. At times they did not; I believe after William Sprague, senior, died, they did enter into account with the families.

Q. 44. Did you examine at the time of your appraisal into the accounts of the different members of the family at all?

A. We only took the footing of them, sir; I can remember them how as long ago as it was.

Q. 55. Were not the living and other expenses of the different members of the family brought into those accounts at the time you made this appraisal?

A. At the time we commenced this we commenced to do so; but before this, for years and years, nothing had been done of that kind; they commenced a little time before we made this appraisal to make accounts with the families; but before that time nothing had been done.

274 Q. 56. Do you know, from anything you ever heard William Sprague say, what he considered his services to the business were worth yearly?

A. Yes, sir; I have heard him talk about it; I have heard him say it was worth a hundred thousand dollars a year.

Q. 57. Did the firm of A. & W. Sprague accept the proposal made by you and Mr. Frieze to purchase the interest of Byron Sprague on that basis? Did they take your figures and pay Byron?

A. Not that I know of, if I recollect right about it. As I understood it, William Sprague bought the interest. The trouble was between William and Byron, and he bought Byron out, and he made the purchase on the basis of my figures; it was actually done, and Byron received his pay.

Q. 58. Did he receive it in a check?

A. A check was signed, but there is one thing that I don't particularly remember—first, he wanted money along from time to time, and William paid him, and let him have money, and took his check for it, I think, and when the referees closed they filled that check out for six hundred and five thousand dollars; that is my impression.

Q. 50. You mean yourself and Mr. Frieze?

A. Yes, sir; but the stocks we did not do anything with; we only reported the amount, and they agreed to take them and divide them, and take half and half—his part of them at par, whether they were worth five cents or a thousand dollars; it made no odds; they took them all at par; I can't recollect whether we deducted those stocks or not from the check; but it was paid for.

Q. 60. Whose check was it that was given?

A. It was William Sprague's individual check.

Q. 61. Do you remember what bank it was on?

A. I think it was on the Globe Bank; but they never went in in the form of a check, because what he had advanced,
275 Byron was taken out of it, and he gave a check for the balance, I suppose.

Q. 72. Then, the check that you speak of was a voucher of the amount of the purchase-money?

A. $605,000.

Q. 63. You are satisfied, are you not, that the appraisal which you made in 1862–'3, and to which you have testified here, was a just and fair one?

A. If ever I did a thing intentionally fair I did that.

Q. 64. Please state whether the different mills and the machinery contained in them were substantially the same as to the extent of the property, the real estate and the machinery, that they were afterwards in 1865?

A. No, sir.

Q. 65. How did it differ?

A. It differed in that they were putting in machinery into these same mills that we appraised in 1862.

Q. 66. Now, which of the mills did they put the new machinery into?

A. Most of it was put into the Baltic.

Q. 67. How as to the Cranston Point works?

A. There was not much change in Cranston; there were some old machines that were thrown out and some new ones were put in.

Q. 68. In what other places did you examine the property?

A. We went to all the mills; we examined through everything except the goods in New York—the print cloths in New York and the chemics in New York; they agreed that Mr. Hoyt or some one there should appraise them and send us the amount, which they did.

Q. 69. Are you able to state, from your knowledge of the business, to what extent A. & W. Sprague or William Sprague were engaged in outside business operations or speculations?

A. No, sir; I could not.

276 Q. 70. Do you know of any of those operations?

A. Yes, sir; there were some; but I never went into it; I never entered into their business at all; there were some pretty heavy losses.

Q. 71. Did you become aware of some pretty heavy losses in such operations at the time of this appraisal—outside business and speculations?

A. Yes, sir; there were some; there was that cotton speculation, which was a loss, and then there was a large coal loss in Pennsylvania.

Q. 72. Do you recollect the amount of the loss on the cotton speculation?

A. Forty-three thousand dollars, as we had it.

Q. 73. And in the coal?

A. I could not say.

Cross-examination by Mr. THURSTON:

Cross-Q. 1. Do you understand that the coal speculation and the cotton speculation were the private speculations of Amasa and William, or business on account of parties concerned?

A. I don't know; they rendered them to us as being part of their assets; they had the property on hand.

Cross-Q. 2. That is, assets of the copartnership; were they not?

A. Yes, sir.

Cross-Q. 3. What is your age?

A. Eighty-two and a half.

Cross-Q. 4. Do you remember the fact that a reference was made to John A. Gardner and Benjamin F. Thurston in 1865 which involved the ascertainment of the property owned by the A. & W. Sprague firm, including the Quidnick Company property?

A. Yes, sir; I remember that.

277 Cross-Q. 5. Did you not, during the whole of the period that that appraisement was going on, render assistance to the referees in all matters connected with the appraisement and ascertainment of the values of the mill properties and the property at the print works?

A. Yes, sir; as regards the property I did, and the mills and the printing establishment.

Cross-Q. 6. Did you not refer to and were you not aided by the appraisement which you had made in connection with Mr. Frieze in 1862; did you not refer to and, so far as they were of any use, use those papers?

A. Yes, sir; we used them.

Cross-Q. 7. In order to ascertain the value of the mill properties fairly did you not, for and on behalf of the referees, consult with Mr. Amos D. Lockwood?

A. Yes, sir.

Cross-Q. 8. Is that gentleman the same person to whom you have referred in your direct examination as the person with whom you consulted after the appraisement had been made of Byron's interest?

A. Yes, sir; the same man.

Cross-Q. 9. Do you recollect that you obtained from Mr. Lockwood, or made up after consultation with him, a sliding scale of the values of mill properties predicated upon the condition of their machinery, the length of time that such machinery had been in operation, with a view of fixing a value upon mill property by the spindle?

(Objected to by Mr. Butler as immaterial and irrelevant.

A. Yes, sir; and there it is (hands paper to Mr. Thurston).

Cross-Q. 10. Is the paper now presented the one referred to?

(Paper annexed, marked "Exhibit Holmes' Schedule.")

(Objection to the paper by Mr. Butler as irrelevant and inadmissible.)

278 Mr. BUTLER: I wish to note an objection to all these questions.

Cross-Q. 11. Do you remember that you attended personally with

the referees, Mr. Gardner and Mr. Thurston, upon tours of inspection to the different mills and manufacturing establishments?

A. Yes, sir; I remember that perfectly.

Cross-Q. 12. Between 1862 and the time when the second appraisement was made, in 1865, was not the Baltic mill supplied with nearly entirely new machinery?

A. Pretty much—a large portion of it.

Cross-Q. 13. Do you remember whether the Quidnick mills 1 and 2 had also a considerable portion of machinery changed during those years?

A. Yes, sir; machinery was taken out and a good deal of machinery put in.

Cross-Q. 14. Do you recollect whether there were any changes made within that period in the machinery of the Arctic and Natic mills?

A. Well, I could not say about that; the Natic mills were always throwing out and putting in machinery; but I don't remember about the Arctic.

Cross-Q. 15. In the year 1862 or 1863, when the new machinery was put into the Baltic mill, was not the previously existing machinery, as you understand it, old and worn out?

A. Oh, no; not in the Baltic mill, the machinery was not thrown out; new machinery was put into the Baltic mill; they kept putting it in all the time; but there was none thrown out; it was added to.

Cross-Q. 16. To the best of your recollection, was not the Arctic mill destroyed by fire between the time that Byron sold out and the time when the Gardner and Thurston appraisement was made in 1865?

A. Well, I could not say; I suppose I might have found out if I had known that that question was coming.

279 Cross-Q. 17. Are you not sure that the mill was burned after the sale made by Byron?

A. It was burned after William bought Byron out; it was after that; it must have been.

Cross-Q. 18. And was it not rebuilt and supplied with machinery before the appraisement in 1865?

A. Well, I should think it might—for you see they hurried it very fast.

Cross-Q. 19. Have you had considerable experience in the appraisement of manufacturing property for manufacturing cotton goods?

A. Yes, sir; I have had some.

Cross-Q. 20. State whether it is the usual method of appraising such property to appraise it by the spindle as a unit of measure of value?

A. Why, I don't know why it should not be.

Cross-Q. 21. Was not the Lyman Frieze to whom you have referred as being associated with you the confidential clerk of A. & W. Sprague?

A. I considered him so while he was there.

Cross-Q. 22. Is it not the fact that prior to the time when Mr.

Frieze went into the employ of A. & W. Sprague the books were kept upon the single-entry system?

A. Altogether so.

Cross-Q. 23. Can you now recollect how long before the appraisement was had of Byron's interest it was that Mr. Frieze had entered into the employ of A. & W. Sprague?

A. Well, I guess he did not enter until a short time before, did he? I don't recollect about when it was.

Cross-Q. 24. You were for many years intimately acquainted with both Amasa and William Sprague, seniors, were you not?

A. Oh, yes, sir.

280 Cross-Q. 25. Can you give us any idea of what the value of the property of A. & W. Sprague was at the time of the decease of Amasa Sprague in 1843?

A. I think they made a great deal more money afterwards than they did previous, but I don't know what amount.

Cross-Q. 26. Can you now recall how much A. & W. Sprague were estimated to be worth, over and above their debts, at the time of the death of Amasa Sprague?

A. I don't know; no, sir; a large portion of the property of A. & W. Sprague was built after Amasa died.

Cross-Q. 27. Can you now recollect which of the mills were built after the death of Amasa?

A. Well, the Baltic, the Arctic, the Pautucket, the one in the Quidnick; those were the mills.

Cross-Q. 28. How largely were the print works increased after the death of Amasa Sprague?

A. Well, I guess they were about doubled.

Cross-Q. 29. Do you now remember how many printing machines were run at the time of the death of Amasa Sprague, or about how many?

A. No, sir; I do not; not at the time of his death.

Redirect examination by Mr. BUTLER:

Q. 74. Mr. Holmes, when you were asked what A. & W. Sprague were estimated to be worth at the time of the death of Amasa you understood the question to be what they were worth at the death of William, and said (aside to counsel) they were variously estimated to be worth from three to five millions; that was the fact in regard to A. & W. Sprague at the death of William, was it not?

A. Yes, sir.

Q. 75. Can you recollect what you found to be the amount of liabilities and debts of A. & W. Sprague in 1865, when the Thurston and Gardner reference was had?

A. No, sir; I do not; I had nothing to do with that.

281 Q. 76. Did you at that time have anything to do with any examination of the books or accounts?

A. I did not.

Q. 77. Was your action and service confined to the valuation of the mill property?

A. Yes, sir; altogether; and other property.

Q. 78. What other property?

A. The property connected with the mills.

Q. 79. But you did not make any examination of the books or accounts, or the situation of the business, as between the different parties interested?

A. No, sir.

Q. 80. At whose request did you act in reference to the mill property in 1865?

A. I cannot tell for certain.

Q. 81. You can't remember who it was that came to you to ask you?

A. No, sir, I cannot; only I know I went with Mr. Thurston and Mr. Gardner.

Q. 82. The Arctic mill which you have spoken of was a part of the Quidnick property, was it not?

A. Yes, sir; that belonged to Byron; that was not included in this sale.

The witness, after hearing the deposition read over, states that in answering "no others" to the twelfth direct interrogatory he meant no others connected with the Sprague family, and that he has settled a number of other estates and some pretty large ones.

GEO. B. HOLMES.

Subscribed before me—

SAMUEL W. PECKHAM, *Examiner.*

282 EXHIBIT "HOLMES SCHEDULE."

Machinery is good on an average ..... 20 years.
Buildings are good on an average ..... 50 "

	New.	8 y'rs.	11 y'rs.	12 y'rs.	15 y'rs.
Buildings	4	3.36	3.00	2.94	2.70
Machinery and shafting	8.50	4	3.00	2.70	1.70
Water-power	1.50	1.50	1.50	1.50	1.50
Wheels and main gears	.75	.30	.20	.18	.12
Furniture and belting	1.75	.75	.62	.62	.58
Pits and races	.50	.50	.50	.50	.50
	17.00	10.41	8.82	8.44	7.10

New mills with modern improvements and new machinery would vary as follows:

New.	8 years.	11 years.	12 years.	15 years.
$18.00	$13.01	$11.42	$10.89	$9.30

The basis is made upon values before the war, and also upon the supposition that the machinery and buildings have been well cared for and all have a good share of reservoir supply.

283 UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } ss:
City, County, and State of New York, }

Be it remembered that on this tenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me, at No. 111 Broadway, in the city of New York, in the said southern district of New York, in the State aforesaid, Duncan E. MacKenzie, to testify and the truth to say, on the part and behalf of the complainants in a certain suit or matter of controversy now depending and undetermined in the district court of the United States for the — district of Rhode Island, wherein William S. Hoyt is complainant and Amasa Sprague and others are respondents, and in a certain other suit now pending and undetermined in said court, wherein Charles G. Francklyn and another are complainants and the said Amasa Sprague and others are respondents; and the said Duncan E. MacKenzie, being about the age of forty-nine years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said Duncan E. MacKenzie, and he did thereupon depose, testify, and say as follows, viz:

I reside at number 607 Lafayette avenue, in the city of Brooklyn and State of New York; I am a book-keeper by occupation; I was book-keeper for Hoyt, Sprague and Company at the time of the dissolution of that firm by the death of Mr. Hoyt in May, 1874, and had been book-keeper with them from the formation of that partnership in 1859.

284 (By consent of respective counsel, the examination of this witness was here suspended and adjourned to Wednesday, January 24th, 1877, at eleven o'clock in the forenoon of that day at the office of Messrs. Butler, Stillman & Hubbard, No. 111 Broadway, in the city of New York.)

(By consent of respective counsel the examination of this witness was adjourned to Tuesday, January 30th, 1877, at eleven o'clock in the forenoon of that day at the office of Messrs. Butler, Stillman & Hubbard, No. 111 Broadway, in the city of New York.)

NEW YORK, *January 30th*, 1877.

Parties met at eleven a. m. pursuant to adjournment, and the examination of Duncan E. MacKenzie was continued as follows:

By Mr. BUTLER:

Q. Please state when the firm of Hoyt, Sprague & Co. was formed.

A. January 1st, 1859.

Q. Who were the copartners in that firm?

A. Edwin Hoyt, Byron Sprague, William Sprague, Amasa Sprague, Nehemiah Knight, and William Brenton Greene.

Q. What was the capital of that firm?

A. (After referring to book.) About $510,000; put in during the year 1859.

Q. How much of that capital was contributed by A. and W. Sprague?

A. $100,000.

Q. Cash?

A. Yes, sir; it was a draft on Hoyt, Tillinghast & Co.

Q. State how the rest of the capital was made up.

A. It was put in in cash in accounts turned over from Hoyt, Tillinghast & Co. and in bills receivable.

285 Q. All goods assets?

A. They were all goods assets.

Q. What accounts were kept with the different partners in respect to the capital of the joint stock of the concern?

A. They were kept in Edwin Hoyt stock account, A. & W. Sprague stock account, Nehemiah Knight stock account, and William Brenton Greene stock account.

Q. I understand you that the account of A. & W. Sprague was a single account in their joint names?

A. Yes, sir.

Q. What was the business of the firm of Hoyt, Sprague & Co?

A. Dry goods commission.

Q. From whom did their consignments of goods chiefly come?

A. A. & W. Sprague were large consignors; the Atlantic Delaine Company were also large consignors; there were other accounts, pretty large consignors, but those were the principal ones.

Q. Up to what time were consignments made by A. & W. Sprague as a firm?

A. (After referring to book.) We kept the accounts in the name of A. & W. Sprague up to the 1st of April, 1866; after that, I believe, we rendered the accounts in the name of A. & W. Sprague Manufacturing Company—that is, the merchandise accounts; the stock account was never changed from A. & W. Sprague.

Q. Have you here present before the commissioner the original books of account of Hoyt, Sprague & Co., in which the accounts to which you have referred were kept?

A. The ledgers?

Q. By whom are the entries in those ledgers made?

A. By myself.

286 Q. Please state what entered into the stock account of A. & W. Sprague as kept by you on the debit and credit side?

A. On the credit side we credited them with the amount of capital they put in, the interest on that annually, and their proportion of stock or profit when it was made up annually; on the debit side we charged them with the amounts they drew out or was drawn or paid out for them, and where it was a loss we charged them with their proportion of the loss or stock account; we paid out of their stock account the taxes on their capital.

Q. In the State of New York?

A. Yes, sir.

Q. Did you state how often those accounts were written up?

A. They appear to be made up in 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, and 1872.

Q. What was the proportionate interest of A. & W. Sprague in the business, profits and losses?

A. They commenced with an interest of 20 per cent.

Q. 20 per cent. each?

A. 20 per cent. for A. & W. Spragues, 20 for Mr. Knight, 20 per cent. for Mr. Green, and 40 per cent. for Mr. Hoyt; subsequently Mr. Knight's percentage was reduced to 10 and theirs increased to 30.

Q. Give the date of that increase.

A. January 1, 1864.

Q. The interest of the Spragues was increased from 20 per cent. to what?

A. Thirty?

Q. Did it so remain afterwards?

A. It remained that way until 1867, I believe; (after looking at book,) 1st January, 1867, their proportion was increased 10 per cent; they then had 40, and Mr. Knight 10, and Mr. Green 10.

287 Q. State how it was as to the profits to the credit of the Spragues being drawn out by them, or left in the concern.

A. There was a part drawn out by them, a small amount.

Q. How was it in the main as to their profits being left in the concern?

A. It was left there generally.

Q. Can you state how the account stood from year to year in respect to balances of profits to their credit?

A. Yes, sir.

Q. Please do so.

A. (After looking.) On the 1st January, 1860, there was a balance in their favor brought down to their credit of $139,000; 1st January, 1861, $178,000; 1st January, 1862, $147,000; 1st January, 1863, $211,000; 1st January, 1864, $365,000; 1st January, 1865, $601,000; 1st January, 1866, $797,000; 1st January, 1867, $904,000; 1st January, 1868, $971,000.

Mr. THURSTON: Put them in all the way down?

WITNESS: (Continued.) January 1, 1869, $1,083,000; January 1, 1870, $995,000; that was afterwards changed and a second balance was brought down to their credit of $968,000 on the 1st January, 1870; on January 1, 1871, $1,073,000; January 1, 1872, $1,186,000; the following ledger I have not got here.

Q. Were any drafts made during the year 1865 against their share of profits?

A. In 1865, 30th November, we paid $2,990 in cash.

Q. Is that the only debit during that year?

A. That is the only debit to their stock account that year.

Q. Please state approximately, as near as you can, the balance of profits to this account on the 31st March, 1865?

A. On the 1st January, 1865, there was a credit of $601,000, between that and the 31st of March.

Q. There were no drafts drawn against it between that and the 31st of March?

A. No, sir.

288 Q. On January 1, 1866, there was a balance of what?

A. Balance of $797,000; their share of profits during the year 1865, according to the books, was $156,000.

Q. For the entire year?

A. Yes, sir.

Q. Do these ledgers, now produced, show how the accounts of consigned goods were kept during the same periods that you have referred to?

A. Yes, sir.

Q. How were those accounts kept in respect to goods consigned by the Spragues; in whose name?

A. Up to 1865 in the name of A. & W. Sprague.

Q. Please refer to the books and give us the exact dates in this respect?

A. (After looking.) The balances of accounts as they were written up?

Q. (Interrupting.) I want to find out how long the consignment account was kept with A. & W. Sprague—when it was changed.

A. The account was kept, according to this ledger, with A. & W. Sprague up to the first April, 1866. Previous to that we used [to] render them a semi-annual account current. At their request, on the 1st of April, or 31st of March, we rendered them an account current, bringing a balance down to their credit on the first of April, 1866, of $748,000.

Q. Thereafter the merchandise account was kept with the A. & W. Sprague Manufacturing Co.?

A. Yes, sir.

Q. Do the books show these half-yearly balances of account?

A. Yes, sir.

Q. Please state those from the beginning of the firm down to and including the year 1865.

A. On the 1st of July, 1859, we rendered them an account
289 current for balance against them of $2,000; January 1, 1860, account current, balance in their favor $17,000; July 1, 1860, balance in their favor $13,000; January 1, 1861, balance to their debit $97,000; July 1, 1861, balance to their credit $70,000; January 1, 1862, $36,000; July 1, 1862, balance to their credit $251,000; Jan'y 1, 1863, balance to their credit $211,000; July 1, 1863, balance to their credit $443,000; January 1, 1864, balance to their credit $483,000; July 1, 1864, balance to their credit $833,000; January 1, 1865, balance to their credit $349,000; July 1, 1865, balance to their credit $1,321,000; January 1, 1866, balance in their favor $312,000.

Q. State whether or not the balances you have given in your last answer represent the amount to the credit of A. & W. Sprague over

and above all outstanding acceptances drawn by A. & W. Sprague upon Hoyt, Spragues & Co.

A. It includes all drafts made by A. & W. Sprague and accepted by Hoyt, Spragues & Co up to that date.

Q. It excludes, you mean.

A. It includes.

Q. (Repeated.)

A. All the drafts accepted by Hoyt, Spragues & Co. up to that time.

Q. All those were charged up as fast as they were accepted?

A. Yes, sir.

Q. And the balances over and above those outstanding acceptances?

A. Over and above their outstanding acceptances.

Q. Were the acceptances charged as cash to the date of acceptances?

A. No, sir; they were charged at the maturity of the acceptances; that is, they were charged as cash at the maturity of the acceptances.

290 Q. They were charged, were they not, at the date of the acceptance and entered to the debit of the account?

A. Yes, sir; at the date of their acceptance.

Q. Discounting the interest, or adding the interest?

A. In making up our account currents we credited and debited the interest as the case occurred.

Q. How was it as to the crediting them with the proceeds of sales?

A. All sales made up to the date of those accounts were credited to them.

Q. Then in the balance of credit shown the proceeds of sales were credited—all the outstanding acceptances were charged.?

A. Yes, sir.

Q. During the period that you have mentioned, that is covered by these accounts to which you have referred, were all the drafts of A. & W. Spragues against consignments of goods?

A. Yes, sir; I presume they were.

Q. No accomodation drafts during that period?

A. No, sir; not that I know of.

Q. To what extent did you have knowledge of the affairs of Hoyt, Spragues & Co., so far as they entered into the books, during the time to which you have referred?

A. I had knowledge of their general business.

Q. Were the entries in the books made by you or under your supervision?

A. Yes, sir.

Q. Please state to what extent you gave your personal attendance and attention to the business.

A. Pretty thoroughly.

Q. As to your being there daily?

A. I believe I was three days away during twenty years.

Q. You knew Mr. L. B. Frieze, who is now present, at that time?

A. Yes, sir.

291 Q. What was his connection with the business of A. & W. Sprague?

A. He was managing the business, as I understood, at the Providence end; he used to sign drafts.

Q. Drawn by A. & W. Sprague on the house in New York?

A. Whether that was A. & W. Sprague or the A. & W. Sprague Manufacturing Company I am not prepared to say; but in connection with the A. & W. Spragues he used to sign drafts on Hoyt, Spragues & Co.

Q. In the year 1865, prior to and on the first of April, 1865, who personally represented or attended to the business of A. & W. Sprague so far as you knew?

A. Byron Sprague during the early years of the copartnership used to be in New York more than any of the others—that is, used to be in the store more than any of the others.

Q. Anybody else?

A. Mr. Frieze used to represent them there, and Mr. William Sprague sometimes, and Amasa Sprague occasionally, but seldom, and Mr. Gallup.

Q. In the year 1865, about that time, did you know or hear anything of an appraisal of the property of A. & W. Sprague, or of their firm in Rhode Island?

A. I don't remember anything about it.

Q. Were you called upon to make, or did you make, any statement of the stock account, or any other account, of A. & W. Sprague with Hoyt, Spragues & Co. at or about that time—any special account?

A. I remember at the time they were settling up with Byron Sprague there was an estimate made; that is the only one I remember anything about.

Q. Do you refer to an estimate of the value of his interest in the firm of Hoyt, Spragues & Co.?

A. Yes, sir; of the property on hand.

292 Q. Aside from that, was any estimate made or inquiry made with reference to the value of the interest of A. & W. Sprague in the firm of Hoyt, Spragues & Co. in the spring of 1865?

A. Not to my knowledge.

Q. State whether or not such value could have been ascertained from the books?

A. Yes, sir; it could have been approximately ascertained.

Q. State when, if ever, Hoyt, Spragues & Co. came in advance to A. & W. Sprague, or A. & W. Sprague Manufacturing Co., beyond the goods consigned to them.

A. April 1, 1866, there was a balance in their favor, $748,000; July 1, 1866, $468,000 to their credit; January 1, 1867, $85,000; April 1, 1867, a balance to their debit of $58,000; July 1, 1867, a balance to their debit of $134,000; January 1, 1868, a balance to their debit, $351,000; April 1, 1868, balance to their credit of $629,000; July 1, 1868, balance to their credit, $248,000; January 1, 1869, a balance to their debit of $305,000; April 1, 1869,

a balance to their debit, $565,000; on the 1st July, 1869, there was a balance against the Manufacturing Company of $815,000; on the 1st January, 1870, balance, $1,024,000; April 1, 1870, $1,844,000; July 1, 1870, $2,733,000; January 1, 1871, $2,101,000; April 1, 1871, $3,094,000; July 1, 1871, $3,566,000; January 1, 1872, $4,009,000; April 1, 1872, $3,997,000; July 1, 1872, $4,645,000.

Q. State how these balances on the debit side of the account arose.

A. By the payment of cash and the acceptance of their drafts in excess of the sales and cash receipts from them or other receipts from them.

Q. From the sales of goods?

A. From A. & W. Sprague Manufacturing Company.

Q. You spoke of an appraisal in respect of Byron Sprague's interest; please give the date of that appraisal as near as you can.

293 A. My impression is that the appraisal was made in 1862 or 1863.

Q. State how it was as to the volume of the business after 1862 or 1863, whether it increased or decreased.

A. It increased very much.

Q. When did it begin to increase?

A. In 1863 the increase was large; in 1862 the sales in New York were $7,000,000, and in 1863 they were $11,000,000; they were never under that until 1867; that is, in 1863 the New York sales were $11,000,000; in 1864, $14,000,000; in 1865, $11,000,000; 1866, $11,000,000; and 1867, $9,000,000; 1868, 10,000,000; 1869, $11,000,000; 1870, $10,0000; 1871, $11,000,000; 1872, $10,000,000; 1873 until the first November, they were $9,000,000.

Q. You speak now of the entire gross sales?

A. Yes, sir; of the New York house.

Q. Were commissions on these sales charged, and did those commissions constitute the profit of the business?

A. Yes, sir.

Q. How did these amounts of sales compare with those previous to the year 1862?

A. In 1859 the sales were $4,000,000; in 1860, $4,000,000; 1861, $4,000,000.

Q. State more particularly in reference to the advances made by Hoyt, Spragues & Co., over and above sales of goods, in what way the advances were made, and how they were availed of by A. & W. Sprague?

A. The balance on the 1st April, 1869, was $565,000 to their debit; in April we accepted for them $674,000 of drafts—that is, in April, 1869; in May there was $653,000 of drafts accepted for them, and in June there was $704,000 of drafts accepted by them.

Q. Repeated.

A. Do you wish the credits?

294 Q. No; I want you to state generally how this was done; whether A. & W. Sprague received those acceptances and availed of them as cash.

A. A. & W. Sprague used to draw on us; sometimes they would send them through the bank, and sometimes they would send them

by mail, and we returned them to A. & W. Sprague; we sometimes sold them on the market, but very seldom, and passed the proceeds to their credit as cash.

Q. In either case were those acceptances availed of as cash by A. & W. Sprague; did they receive the benefit of them?

A. Yes, sir.

Q. And the acceptances were paid at maturity by Hoyt, Spragues & Co.?

A. Yes, sir.

Q. Irrespective of the state of the merchandise account?

A. Yes, sir.

Q. So far as you know was there any rule or system or order of business under which these acceptances were drawn, or were they drawn by the Spragues according to their own will?

A. Yes, sir; they were drawn by them without any reference to the condition of the account, or rather they were accepted by us without any reference to the condition of the account.

Q. They were drawn by them and accepted by Hoyt, Spragues & Co. without any reference to the condition of the merchandise account?

A. Yes, sir.

Q. Please state what was the condition of the account and what was the fact in November, 1872, as to Hoyt, Spragues & Co. being in advance to A. & W. Sprague in excess of the proceeds of consigned goods?

A. The end of November?

Q. No, the beginning of November.

295 A. According to this there would be a balance of about $4,266,000 on the first of November, 1872, to the debit of A. & W. Sprague Manufacturing Company. That is the fact as appears from the ledger.

Q. Now state explicitly of what that balance consisted.

A. On the 1st July, 1872, there was a balance of account rendered to them to their debit of $4,645,000; in July we accepted their drafts to the extent of $1,355,000; in August, to the extent of $1,313,000; in September, $1,118,000; in October, $1,213,000; we paid out in cash items about $2,000—cash and other items; there were goods charged back to them about $24,000; we received from them in cash in July $895,000; sales for July, $298,000; in August, cash from them, $885,000; sales in August, $434,000; cash in September, $1,095,000; sales in September, $670,000; cash in October, $810,000, and sales in October, $314,000, leaving a balance of about $4,266,000 against them.

Q. Then this balance consisted of actual advances made by Hoyt, Spragues & Co., up to November, 1872, after crediting all cash payments and all proceeds of goods sold?

A. Yes, sir; including acceptances charged.

Q. Was there a change between the 1st and 9th November, 1872?

A. I have no means of knowing here.

Q. How was it on the 1st December?

A. On the 1st December it stood about the same—$4,266,000.

Q. Did the account to which you have referred embrace all the transactions between Hoyt, Spragues & Co. and A. & W. Sprague, or the A. & W. Sprague Manufacturing Co.?

A. Yes, sir; all but the stock account.

Q. To which you have referred?

A. Yes, sir.

296 Q. The advances of cash and acceptances to which you have referred were made from time to time in the regular course of the business as it fell under observation, were they not?

A. Yes, sir.

Q. Did you or not make out or keep the record of the acceptances?

A. Mr. Knight entered the acceptances on the bill book.

Q. And from that you transferred them to what account?

A. From the bill book to the journal, and from the journal to the ledger.

Q. And these entries were made daily, as the transactions occurred?

A From the bill book to the journal?

Q. Yes.

A. No, sir; monthly as the transactions occurred.

Q. Had you knowledge of the checks that were drawn to meet the acceptances as they matured?

A. The acceptances were paid through the bank; we did not draw checks to meet them.

Q. How did they go into your accounts?

A. The bank charged them to us, and returned them to us as vouchers.

Q. And when those vouchers came in then the proper entries were made in your books?

A. We charged them up from our books each day as they matured.

Q. They were charged against the Spragues when they were accepted?

A. Yes, sir; as between us and the bank we gave them credit each day for our acceptances maturing that day.

Q. So that you had knowledge of the advances as they were made from time to time?

A. Yes, sir.

Q. State whether at any time in the month of November, 1872, A. & W. Sprague, or the A. & W. Sprague Manufactur-
297 ing Co., were in advance to the concern of Hoyt, Spragues & Co. to any amount.

A. No, sir; not over the acceptances at no time in November, 1872; the sales and cash we had received from them did not reach the amount of the acceptances we had issued.

Q. Can't you answer my question directly, yes or no?

A. No, they were not.

Cross-examined:

Q. At what time did Hoyt, Spragues & Co. suspend payment?

A. 30th October, 1873.

Q. Will you please add to your depositition by referring to the books, which you have not with you at the present, the condition of the stock account of the several partners down to the time when Hoyt, Spragues & Co. failed?

A. Yes, sir.

Q. Will you also add to your deposition by referring to the books, not here present, the continuation of the statement of account as between the partners and the company down to the time of the failure?

A. Yes, sir.

Q. You said that A. & W. Sprague were one of the partners in the firm of Hoyt, Spragues & Co.; do you know, or have you any means of knowledge, what persons composed A. & W. Sprague?

A. I understood, at the time, that it was Byron Sprague, Amasa Sprague, and William Sprague.

Redirect:

Q. There was no separate stock account kept with Byron Sprague?

A. No, sir; there was no separate stock account kept with any of the Spragues.

298 (It is stipulated that the testimony of this witness, and the other witnesses to be examined on behalf of the complainant, be taken down and written out by the stenographer with like effect as if written down by the commissioner in person, and is to be read over to the witnesses and signed by them, respectively, and authenticated by the commissioner and transmitted to the clerk in accordance with the equity rules, and that said testimony shall be used in both the above-entitled actions and in any proceedings therein with like effect as if separately taken in each of said actions.)

On reading over the deposition to witness he says that in my reply to the first question, on page 13 ( ), I spoke entirely from memory, and I found by reference to the books that Mr. Frieze did not sign time drafts on Hoyt, Spragues & Co. In my reply to the second question, on page 15, which was, "State when, if ever, Hoyt, Spragues & Co. came in advance to A. & W. Sprague, or A. & W. Sprague Manufacturing Company, beyond the goods consigned to them," my reply was: About the first of July, 1869. The debit balance against them, previous to that time, had been covered by goods on hand. In replying to that last question, on page 16 ( ), I gave the figures of the entire sales from all consignors If the question referred to the A. & W. Sprague sales alone I should have replied that our net sales for them in 1859 were $1,766,000; in 1860, $2,241,000; in 1861, $1,741,000; in 1862, $3,258,000; in 1863, $5,345,000; in 1864, $5,693,000; in 1865, $7,135,000; in 1866, up to April 1st, for A. & W. Sprague, $1,900,000, and for the A. & W. Sprague Manufacturing Company, for the balance of the year, $4,710,000; in 1867, $5,933,000; in 1868, $6,097,000; in 1869, $7,409,000; in 1870, $6,065,000; in 1871, $6,055,000; in 1872, $5,044,000; in 1873, $4,639,000.

The A. & W. Sprague stock account shows balances to their

299 credit subsequent to the times given by me in my direct examination down to the time of the suspension, as follows:

On the 1st of January, 1873, $1,279,000. Their merchandise account subsequent to the balances already given shows, on the 1st of January, 1873, a debit balance of $4,256,000; the 1st of April, 1873, $4,175,000; the 1st of July, 1873, $4,835,000. This was the last balance rendered previous to the failure.

DUNCAN E. MACKENZIE.

Subscribed and sworn to before me the 12th day of February, 1877.

JAMES H. GILBERT,
U. S. Commissioner.

Deposition of Mary Sprague.

MARY SPRAGUE, having been duly sworn, testifies as follows in answer to interrogatories propounded:

By Mr. BUTLER:

Q. 1. Mrs. Sprague, you are the widow of William Sprague, deceased?

A. Yes, sir.

Q. 2. Can you give the date of your marriage?

A. I was married in 1821, the 23d of December.

Q. 3. Can you give us your age when you were married?

A. I was in my 21st or 22d year.

Q. 4. Was Amasa Sprague the older or younger brother of your husband?

A. He was younger.

Q. 5. Were they copartners at the time you were married?

A. They were engaged in business together with their father, William Sprague, the elder.

Q. 6. It was the manufacturing business?

300 A. Yes.

Q. 7. Do you recollect the time of the death of Amasa Sprague?

A. I recollect his death; it was about 1843; he died at Cranston, Rhode Island; he was murdered on his farm in Cranston; my husband was in Washington at the time; he was then United States Senator.

Q. 8. What family did Amasa leave?

A. He left his widow, Fanny, his sons, Amasa and William, and his daughters, Mary Anna and Almira; Mary Anna is now the wife of Frank Latham; Almira now the wife of Thomas A. Doyle.

Q. 9. Please state you own family.

A. I had two children—Susan, who married Edwin Hoyt, and my son Byron; these were the only children of my marriage with William Sprague.

Q. 10. On the death of Amasa Sprague, did your husband, William Sprague, give his attention to the business, and to what extent?

A. He immediately resigned as Senator and came home and gave

his whole time to the business, and exerted himself very much, and had no partner up to his last illness; he was taken sick on the 1st day of October, 1856, and died on the 19th of the same month in Providence.

Q. 11. Did he form any and what copartnership during that last illness?

A. That I really don't know anything about; I think there were some writings, and the last time he used a pen — in reference to partnership arangements; my son Byron became interested in the business then with Amasa and William, the nephews of my husband.

Q. 12. Your husband left no will?

A. No.

Q. 13. During the period between the death of Amasa
301 Sprague, the elder, and the death of your husband, where did Mrs. Fanny Sprague reside, and what, if any, connection did her sons, Amasa and William, have with the business?

A. She resided part of the time at Cranston and part of the time in Providence; after Amasa and William Sprague, the sons, left school they came right in and were employed in the business and made themselves very useful; this was about two years after their father's death; my son Byron came in in the same way, and perhaps a year before the other boys did.

Q. 14. After the death of Amasa, and up to the time of your husband's death, the business was conducted solely by your husband, was it not?

A. Yes.

Q. 15. So far as you know, did Mrs. Fanny Sprague have anything to do with the business?

A. I don't know anything about that.

Q. 16. Please give the dates of Mrs. Hoyt's marriage and death and the names of her children?

A. She was married in 1843, and died, I think, in October, 1853; she resided in New York during all her married life; her children were Sarah, wife of J. Bowers Lee; Susan Sprague, wife of Charles G. Francklyn; Edwin and William S. Hoyt; they were all minors under fourteen.

Q. 17. After your husband's death, state how and by whom the business was carried on.

A. It was carried on by my son and his two cousins, the young men above named.

Q. 18. This was with your entire consent and approbation, was it not?

A. Yes.

Q. 19. Do you recollect the fact of your taking out letters of administration on your husband's estate and letters of guardianship of the children of Mrs. Hoyt?

A. I remember the fact.

302 Q. 20. Please state where you signed the petition or bond relating to your appointment either as administratrix or guardian?

A. I think I signed them both in my own house in Providence;

I have a distinct recollection of that and of the administration and the guardianship; I don't know as I recollect what the papers were, but they related to the beginning of my acting as administratrix and guardian.

Q. 21. Have you any recollection of signing any paper or doing any act, either as administratrix or guardian, at any place since the signing of those first papers to which you have referrred?

A. No; I do not; if I should have any papers read to me I should know; I have no such definite recollection of anything subsequent as I have in regard to the first papers.

Q. 22. At your husband's death of what did you understand his estate to consist?

A. Of course, where it always had been, in the manufacturing business.

Q. 23. Did you know at the time how much was in real estate and how much in personal property, or how any of it was situated in reference to the business?

A. I did not know anything at all about it.

Q. 24. Did you undertake to give any personal attention to the business matters connected with the estate of your husband?

A. No; I did not; not at all.

Q. 25. Did you at any time attempt to ascertain the value or nature of the interest of Mrs. Hoyt's children in the estate?

A. No; I never did.

Q. 26. Please state whether or not the whole property and business and their management remained in the hands of the young men as they had done in those of your husband before his death.

303 A. All went on just the same.

Q. 27. Where was the principal office of the firm of A. & W. Sprague?

A. In the city of Providence, where it had been during my husband's life.

Q. 28. Who had the principal charge and management?

A. My son Byron, while he remained in the firm. He was treasurer, and had care of the finances. William bought cotton and attended to the mills. Amasa took charge of the print works at Cranston. Everything went on after my husband's death as before; but they had the responsibility after his death.

Q. 29. So far as you know, did they conduct the business according to their own ideas and on their sole responsibility?

A. They did.

Q. 30. Do you know where the letters of administration are which were issued to you by the probate court of Warwick?

A. I don't know where they are; I never had them in my possession.

Q. 31. Is your answer the same in reference to the letters of guardianship?

A. I have no recollection of having them; my son took care of all the papers.

Q. 32. Were you ever at the probate court in person?

A. No; I never was.

Q. 33. When any papers were signed was it at your house, or where?

A. I signed some in New York, and the rest, I think, in my house. The papers I signed in New York were a bill of reference to have the property appraised. They were sent on from Providence to New York, where I was visiting. This is the only paper I signed in New York; all the other papers, I think, were signed in my own house.

304 Q. 34. At whose request or suggestion were the papers signed that you have signed at your house?

A. My son and Mr. Hoyt. Mr. Hoyt was here when I signed those papers.

Q. 35. Which papers?

A. I mean the administration and the guardianship. I mean the first papers that I referred to as having been signed in my answer to Int. 20. All the papers that I signed I did at request of my son and Mr. Hoyt. My son looked out for my interests. I relied on Mr. Hoyt more than I did on my son.

Q. 36. With the exception of your son and Mr. Hoyt, did you advise or consult with any one as to your duties or rights as administratrix or guardian?

A. No; I did not.

Q. 37. Was that so in reference to any matters connected with the business?

A. Well, I wanted to know which would be the best way to go on with it as it was, and I thought it better for myself and my grandchildren to let it all remain and let it be as it had been. I thought what was best for me would be best for my grandchildren.

Q. 38. Did not William Sprague and Amasa Sprague, as well as your son, agree with you in your view of the matter?

A. They did.

Q. 39. They were anxious to have it remain, were they not?

A. I can't say anything about it; it was all worked together. They never said much of anything about it to me; they never talked business much with me.

Q. 40. You never made, as I understand, any personal examination into the affairs of the business, or its books or accounts?

A. Oh, no; I did not.

Q. 41. Did you ever propose to William or Amasa, or suggest to them, or any one, to have winding up or accounting of the business?

305 A. No.

Q. 42. Nor they to you?

A. No.

Q. 43. Did you not, at the time, understand and suppose that Amasa and William were just as anxious to have the business go on as you and your son were?

A. I think they were; they wanted it all to go on together as it had been.

Q. 44. You never heard of any difference of opinion upon that point, did you?

A. No.

Q. 45. Did you, at the time, hear any question or difficulty suggested by any one as to going on with the business as before?

A. Oh, no; it all went on very well, indeed.

Q. 46. Did you have any consultation with or do anything about Mrs. Fanny Sprague or her interest as administratrix in the business?

A. No; I never knew anything about her business at all.

Q. 47. Is it not the fact, Mrs. Sprague, that some of the papers that you signed, and acts that you did, were at the immediate request of William Sprague in regard to those matters?

A. I never signed any by his request.

Q. 48. Don't you recollect stating to Mr. Francklyn and to Mrs. Francklyn that some of these papers were signed at William Sprague's request, and that he made threats in connection with the same?

A. No, sir; that is all wrong; he never has been in the house when I have signed a paper, and he never has said anything to me about signing.

Q. 49. You recollect the fact of your son Byron retiring from the business?

A. I do very well.

306 Q. 50. Do you recollect the date of that—about how long after his father's death it was?

A. Oh, it was some time—about six years, I think, after his father's death.

Q. 51. Did you know the reason of his retirement?

A. Well, I think he thought it would be better for him to do so.

Q. 52. Did you know anything about the terms upon which he sold out his interest?

A. No, I never did.

Q. 53. Did you, at the time or ever, make any inquiry on that subject?

A. Well, I didn't know exactly, of course; but I knew somewhere in the neighborhood of what he thought he had got.

Q. 54. Were you consulted or did you have anything to do with reference to that matter?

A. Nothing at all; I never knew it until ten days after he had sold out.

Q. 55. After his retirement, who had charge of the business?

A. Well, these two young men had the charge of the business—Amasa and William.

Q. 56. In reference to the financial matters, who took the place and performed the duties which previously had been performed by Byron?

A. Well, I really don't know.

Q. 57. Was not William Sprague after that time the active manager of the affairs of the business?

A. Well, I think he was.

Q. 58. Amasa was more particularly engaged, was he not, in the mill at Cranston?

A. Yes, sir; at the Cranston Print Works.

Q. 59. Was it not the fact that the general direction and management was in the hands of William Sprague?

307 A. Yes, sir; I think so.

Q. 60. Did you know at the time of the formation of the corporation—the A. & W. Sprague Manufacturing Company and the Quidnick Company?

A. Yes, sir.

Q. 61. How did you learn that those companies were to be incorporated?

A. Well, I heard it talked of, of course; my son said it must be incorporated—that they could not carry on the business unless it was incorporated.

Q. 62. Were you consulted, or did you do any act, in reference to the incorporation?

A. I was consulted by my son and Mr. Hoyt and William Sprague; but Amasa never said anything, and he never talked anything of business; but William came in one day and said they must go into an incorporation, because such a large factory could not be worked unless they did.

Q. 63. Can you explain or account for the fact that up to the time of the incorporation no appraisement had been made or inventory filed of the estate of your husband or the minor children?

A. No; I don't think there ever was any.

Q. 64. That is not quite an answer to my question; can you account for it or explain it?

A. No, sir; I cannot.

Q. 65. Please state in what way you drew money or received payments for your own use?

A. Well, we all drew money alike; it was all one family until it went into the incorporation; after that it was charged whatever each family drew.

Q. 66. Up to that time, please state what is your understanding of the way the money was paid out to you and to others interested.

A. All the families lived up to that time upon the common

308 property; it was so always after I married into the family; they always lived as one family, and drew what money they wanted.

Q. 67. Do you know whether there was ever any account on the books against you?

A. There never was any that I knew of before the incorporation, and after that every one had it charged; I don't know that there was before that anything ever charged to me; not to my knowledge.

Q. 68. Then, as I understand it, no accounts were rendered to you—no settlements made with you from time to time?

A. No, sir; no settlements.

Q. 69. And equally after the time that Byron went out as before; this arrangement continued up to the time of the incorporation?

A. No, sir, it did not; I think not; I think that as soon as he left there were charges; I really cannot be certain about it; I cannot tell.

Q. 70. Beyond what you have stated, can you fix the time or tell

from whom you first heard of the idea of the incorporation; have you any definite recollection about the time that you first heard that they intended to turn this into an incorporation?

A. I cannot recollect just the time, I am sure.

Q. 71. I want to know whether that is fixed in your mind at all?

A. Oh, no, sir; of course they talked about it, and when they got ready they did it; I knew and understood all about it that it was going to be done.

Q. 72. It was a subject of conversation for a long time before it was done?

A. Yes, sir.

Q. 73. Do you know what delayed the execution of their purpose to make the incorporation?

309 A. Oh, no; I did not; I did not interest myself at all about it.

Q. 74. Do you recollect of any dividend or division being made before the incorporation at any time—any dividend to anybody?

A. I don't know; I am not sure whether I received any dividend before or not; I can't remember.

Q. 75. Have you any recollection of any dividend or division before your husband's death?

A. Oh, no, never; it all went on just the same as one family until he died.

Q. 76. Did you know anything about the sale of the interests of Mary, Anna, or of Almira?

A. No, sir; I have forgotten; I have heard about it at the time.

Q. 77. You have no present recollection about it?

A. No, sir; no recollection at all about it; I had nothing to do with it at the time; while my husband lived I had nothing to do with it at all.

Q. 78. And you were never consulted as to the purchase of those interests; when William and Amasa bought out those interests you were never consulted?

A. Bought out what interests?

Q. 79. They bought out the interests of Byron and the interest of Almira?

A. My husband did that before he died.

Q. 80. Not Almira's?

A. Yes, sir; Almira's interest he bought out before he died; I had nothing to do with my son's selling out; if I had known I should have been very unwilling for him to have done so.

Q. 81. In 1863, prior to the actual incorporation, did you know or take any steps to ascertain what the value of the property was?

310 A. No, sir.

Q. 82. Did you know or take any steps to ascertain what was the amount of the debts at that time?

A. Oh, no, sir; never.

Q. 83. Allow me to ask you, as a general question, whether you had any knowledge whatever of the state of the business either as to the value of the property or the amount of the debts?

A. No, I never did; I never did until after it was appraised—never before that; I never knew or had any idea.

Q. 84. Let me ask what you know or recollect about the petition to the Legislature?

A. Well, I know that they petitioned, of course, for an incorporation.

Q. 85. I don't refer to the petition for incorporation, but to the petition made by you in reference to the interests of the children; have you any recollection about that?

A. Well, no; I don't know as I have any recollection; I don't understand your meaning.

Q. 86. I will put the question more definitely. Do you recollect doing anything in regard to the incorporation—about the interest of Mrs. Hoyt's children?

A. Well, I don't understand what you mean.

Q. 87. Have you any recollection now of any act that you did about the interests of those children in connection with the incorporation?

A. Well, I am forgetful; I have no present recollection about it; I cannot remember about it; of course I must have understood about it at the time.

Q. 88. Were not all the proceedings by which the property was turned into the corporations entirely amicable and in the family?

A. Yes, sir; of course; so we all thought it was the best thing that could be done.

311 Q. 89. After the incorporation, was there any difference in the practical management of the business, or did it continue the same?

A. It continued the same.

Q. 90. The petition to the Legislature that I refer to was a petition for an act authorizing you, as guardian, to put the interest of Mrs. Hoyt's children into the corporations. Do you recollect signing such a petition and where you signed it?

A. Well, I don't know where I did sign it.

Q. 91. You have no present recollection of that act?

A. No, sir; I have no present recollection about that.

Q. 92. You have a recollection of signing the agreement for the appraisement in New York?

A. Yes, sir; before that I signed them there and Mr. Hoyt signed them there.

Q. 93. Can you tell me how it is that you recollect signing the appraisement agreement more distinctly from the fact that they were sent on to New York?

A. I remember that very well indeed, because they were sent there and Mr. Hoyt sent over on Broadway and got a gentleman to come over and witness it.

Q. 94. Now, beyond signing that paper, did you do anything about the appraisement yourself?

A. Oh, no; I had nothing to do with it. Of course, I should not have known anything about appraising the property.

Q. 95. Did you examine the report of the appraisers or take any personal interest in the matter?

A. I did, and I thought they appraised it full enough, too.

Q. 96. Please explain to me what the sum of $75,000 was, which was allowed to you by the appraisers?

A. Well, they bought so much of my property.

Q. 97. How did you receive the $75,000?

A. Well, I received it in stocks of all sorts; it is in that book, if you want to see it; it was a great many different things.

312 Q. 98. Do you know what the $75,000 allowed to Byron was for?

A. No, sir; I do not; I don't know anything about that; I never knew.

Q. 99. Do you recollect making any inquiry to ascertain whether the Legislature had passed the act or resolution for which you petitioned?

A. No; I never looked into it at all.

Q. 100. Your nephew, William, was Governor of Rhode Island at that time, was he not?

A. They say so. I did not know it or think of it at the time.

Q. 101. All these matters and proceedings are managed without your having any personal connection with them?

A. Well, I did not do anything about it. I was consulted and knew about it, and of course I thought it was for the best.

Q. 102. Did you not know that William Sprague was largely concerned in political and other outside matters?

A. Well, I knew he was concerned in political matters.

Q. 103. You knew that fact?

A. Yes, sir; of course I knew it.

Q. 104. Did that fact make any difference in your treatment of the subject?

A. No, sir; it did not.

Q. 105. Did your son Byron, or any one of these parties, ever inform you to what extent they relied on their own judgment and to what extent they acted under legal advice?

A. Oh, no, sir; never.

Q. 106. Did you receive your share of stock in the corporation?

A. Oh, no; I never "received" it; it all went on just the same. I knew how much I had, of course, but I never had them in my possession; I knew all about what I had.

313 Q. 107. As I understand you, you made no inquiry or investigation to see whether the appraisal was correct or not; you took it for granted that it was?

A. I thought of my own judgment that it was right, and I thought they made as much of it as they ought to; I was perfectly satisfied with what they said belonged to me.

Q. 108. Your satisfaction was not, as I understand, the result of any examination that you made into the figures or books?

A. No, sir; I did not make any figures, but I was satisfied with it.

Q. 109. You were so satisfied with it, were you not, that it never occurred to you that there ought to be any other accounting; that

A. No, I never did; I never did until after it was appraised—never before that; I never knew or had any idea.

Q. 84. Let me ask what you know or recollect about the petition to the Legislature?

A. Well, I know that they petitioned, of course, for an incorporation.

Q. 85. I don't refer to the petition for incorporation, but to the petition made by you in reference to the interests of the children; have you any recollection about that?

A. Well, no; I don't know as I have any recollection; I don't understand your meaning.

Q. 86. I will put the question more definitely. Do you recollect doing anything in regard to the incorporation—about the interest of Mrs. Hoyt's children?

A. Well, I don't understand what you mean.

Q. 87. Have you any recollection now of any act that you did about the interests of those children in connection with the incorporation?

A. Well, I am forgetful; I have no present recollection about it; I cannot remember about it; of course I must have understood about it at the time.

Q. 88. Were not all the proceedings by which the property was turned into the corporations entirely amicable and in the family?

A. Yes, sir; of course; so we all thought it was the best thing that could be done.

311 Q. 89. After the incorporation, was there any difference in the practical management of the business, or did it continue the same?

A. It continued the same.

Q. 90. The petition to the Legislature that I refer to was a petition for an act authorizing you, as guardian, to put the interest of Mrs. Hoyt's children into the corporations. Do you recollect signing such a petition and where you signed it?

A. Well, I don't know where I did sign it.

Q. 91. You have no present recollection of that act?

A. No, sir; I have no present recollection about that.

Q. 92. You have a recollection of signing the agreement for the appraisement in New York?

A. Yes, sir; before that I signed them there and Mr. Hoyt signed them there.

Q. 93. Can you tell me how it is that you recollect signing the appraisement agreement more distinctly from the fact that they were sent on to New York?

A. I remember that very well indeed, because they were sent there and Mr. Hoyt sent over on Broadway and got a gentleman to come over and witness it.

Q. 94. Now, beyond signing that paper, did you do anything about the appraisement yourself?

A. Oh, no; I had nothing to do with it. Of course, I should not have known anything about appraising the property.

Q. 95. Did you examine the report of the appraisers or take any personal interest in the matter?

A. I did, and I thought they appraised it full enough, too.

Q. 96. Please explain to me what the sum of $75,000 was, which was allowed to you by the appraisers?

A. Well, they bought so much of my property.

Q. 97. How did you receive the $75,000?

A. Well, I received it in stocks of all sorts; it is in that book, if you want to see it; it was a great many different things.

312 Q. 98. Do you know what the $75,000 allowed to Byron was for?

A. No, sir; I do not; I don't know anything about that; I never knew.

Q. 99. Do you recollect making any inquiry to ascertain whether the Legislature had passed the act or resolution for which you petitioned?

A. No; I never looked into it at all.

Q. 100. Your nephew, William, was Governor of Rhode Island at that time, was he not?

A. They say so. I did not know it or think of it at the time.

Q. 101. All these matters and proceedings are managed without your having any personal connection with them?

A. Well, I did not do anything about it. I was consulted and knew about it, and of course I thought it was for the best.

Q. 102. Did you not know that William Sprague was largely concerned in political and other outside matters?

A. Well, I knew he was concerned in political matters.

Q. 103. You knew that fact?

A. Yes, sir; of course I knew it.

Q. 104. Did that fact make any difference in your treatment of the subject?

A. No, sir; it did not.

Q. 105. Did your son Byron, or any one of these parties, ever inform you to what extent they relied on their own judgment and to what extent they acted under legal advice?

A. Oh, no, sir; never.

Q. 106. Did you receive your share of stock in the corporation?

A. Oh, no; I never "received" it; it all went on just the same. I knew how much I had, of course, but I never had them in my possession; I knew all about what I had.

313 Q. 107. As I understand you, you made no inquiry or investigation to see whether the appraisal was correct or not; you took it for granted that it was?

A. I thought of my own judgment that it was right, and I thought they made as much of it as they ought to; I was perfectly satisfied with what they said belonged to me.

Q. 108. Your satisfaction was not, as I understand, the result of any examination that you made into the figures or books?

A. No, sir; I did not make any figures, but I was satisfied with it.

Q. 109. You were so satisfied with it, were you not, that it never occurred to you that there ought to be any other accounting; that

is so, is it not; you thought that was all the accounting that was necessary?

A. Well, I thought so; yes, sir.

Q. 110. You knew, did you not, that the appraisal that was made was a private matter entirely—that it was not public?

A. Well, I didn't know but it was public; I thought everybody knew it; I did not know that there was any privacy about it.

Q. 111. Did you ever see the appraisal, the paper which contained the appraisal of the property?

A. Well, I don't know as I saw it all together, but I saw mine separate, and that for my grandchildren.

Q. 112. Where did you see that?

A. Well, it was brought here on a book; I think there was some book brought here, and I saw it all set down—so many shares for me and so many for my grandchildren?

Q. 113. Do you recollect who showed it to you?

A. I think that it was a young man that I employed to do my business for me; his name was Cory; he was one of the ap-
314 praisers, I think; I know it was he, because he showed it to me and explained it, and I think I have got it on a piece of paper now, just a little of it, where he took it off for me.

Q. 114. You did not make it public to any one yourself?

A. Well, I did not make it public, as I know of; I did not show it to anybody, but if anybody had asked me I should have told them.

(The last clause of the answer is objected [to] by Mr. Butler as not responsive.)

Q. 115. That is the only time you ever saw it, is it not?

A. Yes, sir; I think so.

Q. 116. When that appraisement was made there were no suits or claims against the concern that you knew of, were there—were there any disputes at all?

A. No, sir; not that I ever knew anything about.

Q. 117. Did Amasa or William make any claim that the others objected to, that you ever heard of?

A. No, sir; I never heard anything about it.

Q. 118. And you made no claim that they objected to?

A. The family generally agreed.

Q. 119. And there was not at that time any disputed claim that you knew of?

A. No, sir; nothing that I ever knew anything about.

Q. 120. Then this appraisement was not done to avoid any litigation or suit?

A. No, sir; not that I know anything about.

Q. 121. Did Amasa or William Sprague have any interest in the firm of Hoyt, Sprague & Company?

A. I don't know anything about it, anything more than that they went into company with Mr. Hoyt.

Q. 112. Were you ever consulted about that?

A. No, sir; I was not, and if I had been they would not have gone in; that is very sure, for I was so worked up about it that I

did not know what [to] do; I think they would have done a good deal better in some other things if they had consulted me.

315 123. Do you recollect signing the deed by which you turned over the interest of the children to the corporation?

A. Yes, sir.

Q. 124. Do you know where that was done?

A. No, sir; I think I did it at my own house; I did not use to go down to the office very often.

Q. 125. I suppose you don't recollect now anything about the deed except the fact that you signed it?

A. No, sir; I do not.

Q. 126. You could not give me any explanation of anything that is in it?

A. No, sir.

Q. 127. I want to show you one or two papers, Mrs. Sprague; that which I now show you is your signature, is it not?

(To Exhibit No. 8 in Sam. W. Clarke's deposition.)

A. Yes, sir; that is mine.

Q. 128. Do you recollect signing it or seeing it before?

A. Yes, sir; I signed it; that is my signature.

Q. 129. Now, beyond that, have you any recollection of this paper?

A. Well, I should have, perhaps, if you should tell me what it is.

Q. 130. But you don't have any recollection by looking at it?

A. No, sir; I do not; by just looking at it of course I cannot tell.

Q. 131. Now, I will tell you what it is; this is the petition of the probate court asking for leave to put the property of the children of Mrs. Hoyt into the corporation. Now, I ask you if you recollect where you signed that paper?

A. No, sir; I don't recollect where I did it; but I did it, that is sure; it is very hard for me to tell where it was; but I think I did most of it here in this room.

316 Q. 132. Now, Byron Sprague being out of the concern at this time, 1865, do you recollect his having anything to do with it?

A. I can't say; I don't know anything so far back as that unless it should be explained; I could not tell.

Q. 133. I suppose that is the same in regard to all these papers. Here are some signed by you; this one is a bond; I show you now your resignation as a guardian.

A. Well, I know about that very well.

Q. 134. Please tell all you know about it.

A. Well, I know my son would not let me keep it any longer; he wanted somebody else to take it, for he never liked my taking it.

Q. 135. Did you understand at the time you signed that that William Sprague was to be appointed the guardian?

A. Yes, sir; he was to be appointed, for I asked my son, "Who can you get to take it?"

Q. 136. And did you become security for William Sprague as guardian?

A. They say so.

Q. 137. I show you now the accounts that were filed by you as guardian. Do you know whose handwriting the accounts are in?

A. No, sir; I do not.

Q. 138. Do you recollect who brought those accounts to you to sign?

A. No, sir; I do not.

Q. 139. Mr. Thurston says they are in Mr. Corey's handwriting.

A. Well, I thought it looked like it; I think the accounts are in Mr. Corey's handwriting.

Q. 140. You relied, I suppose, on the correctness of those accounts?

A. Oh, yes, sir.

Q. 141. You didn't undertake to verify them yourself?

317 A. No, sir.

Q. 142. In respect to any deeds, papers, or accounts that came to you from the office, all that you were requested to sign you relied upon their being correct, did you not?

A. I did; everything that I signed, I think, of course, was correct and the best for the property.

Q. 143. You never came to a point where you took separate legal advice about any of these matters that I have examined you about?

A. I did not.

Q. 144. I want to ask you one thing that you may or may not recollect; did you ever complain to William Hoyt that his father would not advise you in these matters?

A. No, sir; he did not advise me, but he ought to have advised me; I asked him what I should do; I don't know surely that I should say this.

Q. 145. Did you tell Willie Hoyt that his father would not advise you?

A. No, sir.

Q. 146. What was it that you said?

A. I said that he ought to have advised me and done different from what he did do, for my husband had said that Mr. Hoyt would take care of me. I asked my husband what I should do, and he said "Hoyt will take care of you;" but he did not do it.

Q. 147. You signed the deed to Mr. Chafee, did you not?

A. Yes, sir; I did.

Q. 148. Did that include all your property?

A. Yes, sir; everything I had I signed over to him.

Q. 149. At whose request was that?

A. Well, it was the general request of the lawyers here; they said it was the law of the State, and I must do it.

Q. 150. The general request of the lawyers who were advising A. and W. Sprague?

318 A. Well, it is law of this State.

Q. 151. Who advised you to sign the deed to Mr. Chafee?

A. Well, it was done by the whole, I think; there was a good many of them, and they all said it must be signed or the creditors would come in and take my property.

Q. 152. That was the inducement, was it—that otherwise the creditors would come and take your property?

A. Well, of course I did not want that anybody should come in and turn me out of my house.

Q. 153. Do you recollect when and where you signed the deed?

A. Yes, sir; over in the other house; I went over there and I was there until 12 or 1 o'clock at night; there was a good deal of signing to it.

Q. 154. Mr. Chafee was not there, was he?

A. No, sir; it was all done before he took it; it was all done for somebody else. Mr. Hoyt was here and Mr. Francklyn; they did not want me to do it.

Q. 155. Did you ever make any inquiry as to how much was allowed to Amasa or William for their personal living expenses, or for money drawn out by them, or their commissions?

A. No, sir; I never did.

Q. 156. Allow me to ask you why not?

A. Well, I did not think anything about asking.

Q. 157. That never occurred to you?

A. No, sir; it did not occur to me. I thought everything was all right.

Q. 158. And did you have confidence in them?

A. Of course I did; if I had not had confidence I should not have let it gone on so.

Q. 159. If I understand it, you had no other purpose, so far as they were concerned, than to allow them to continue to manage the property the same as before the death of your husband?

319 A. No, sir.

Q. 160. No question of extravagance or excessive allowance to them ever occurred to you?

A. No, sir.

Q. 161. Didn't you know that William Sprague was extravagant and reckless in his expenditures?

A. Well, I did for the last few months think that he was.

Q. 162. What last few months do you mean?

A. Before the suspension.

Q. 163. But prior to that there was no fact or circumstances that drew your attention to that subject?

A. No, sir.

Q. 164. Were [you] aware of his building his house at Narragansett pier?

A. Well, not until afterwards; that is a very elaborate thing they tell me; I never have seen it; that was done by his wife.

Q. 165. Do you know how much it cost?

A. I do not; no, sir; I don't know as anybody knows particularly how much it cost.

Q. 166. What were his habits of expenditure; were they moderate or extravagant?

A. For himself it has always been very moderate; but his wife was very expensive.

Q. 167. His wife induced his extravagance?

A. Yes, sir.

Q. 168. Did you ever examine or inquire what amount he or Amasa Sprague drew out of the concern for their own personal use, or what commissions were allowed them?

A. No, sir; I did not.

Q. 169. Let me ask you why you did not?

A. Well, it was because I did not do it.

Q. 170. That is a very good answer; you did not take any advice of your son Byron or Mr. Hoyt, about that, did you?

A. Well, as long as my son lived it all went very well.

320 Q. 171. Did Mr. Hoyt, or your son, ever advise you not to look into the books about it?

A. No, sir; nobody ever did; I had a right to; they would not have been offended at all if I had gone down to do it.

Q. 172. Have you any idea now of the amounts drawn out by Amasa or William, or allowed to them?

A. Yes, sir; I think Mr. Francklyn told me something about it.

Q. 173. When was it?

A. Well, when they were on here; that is the first I knew about it.

Q. 174. And that was after the suspension?

A. Yes, sir.

Q. 175. And after Mr. Francklyn, on behalf of Mrs. Francklyn, had had an examination of the books?

A. Yes, sir.

Q. 176. And that was the first that your attention was called to the subject by anybody?

A. Yes, sir; Mr. Francklyn told me that the books all ran very well as long as my son was there.

Q. 177. You have put in an answer in this suit; who prepared that answer for you?

A. Mr. Thurston, I think; I am not sure whether it was Mr. Gardner or Mr. Thurston; I don't know; I signed it for Mr. Gardner.

Q. 178. Did you read it or have it read to you?

A. Oh, yes, sir; I had it read two or three times over to me.

Q. 179. By Mr. Gardner?

A. Mr. Gardner read it to me, and I have had it read by others also, and I think it is all right.

Q. 180. He thinks so, too, I suppose; the Mr. Gardner you refer to is the same gentleman who was one of the appraisers, is he not?

A. Yes, sir.

321 Q. 181. Is Mr. Gardner your counsel?

A. Yes, sir.

Q. 182. Have you had any other counsel?

A. Mr. Thurston.

Q. 183. When did Mr. Thurston become your legal adviser?

A. He has always been my counsel; always when I have had any private business of my own; but I have never had any lawsuits for him?

Q. 184. How long has Mr. Gardner been your counsel?

A. Oh, a long time.

Q. 185. Both these gentlemen have been counsel for you and your son and nephews, have they not?

(Objected to by Mr. Thurston as leading.)

A. Well, I think so.

Q. 186. In reference to the appraisal of the property and agreement for appraisal have you any recollection about it, except your signing it in New York?

A. Oh, yes, sir; when they appraised it.

Q. 187. I mean the paper itself—the agreement; have you any recollection of what took place before it was signed?

A. Why, no sir; I don't know as I had anything in particular; I don't know why I should have; the papers were sent on there when I signed them in Mr. Hoyt's house, and he signed them at the same time.

Q. 188. Before the papers came on to New York have you any recollection of doing anything about the matter?

A. I knew it was going to be done, and I knew who were going to do it.

Q. 189. And beyond that you have no recollection about the matter?

A. Well, what should I think any more than that about it, when I knew it was going to be done and who was going to do it.

322 Q. 190. And was it or not a matter of general consent and agreement between all?

A. It was; it was a general consent, of course.

Q. 191. Was there any difficulty or difference about it that you knew of?

A. I never knew that there was anything of the kind at all; I knew that every one was all satisfied with it.

Q. 192. And all satisfied to have it done?

A. Yes, sir; all satisfied to have it done.

Q. 193. As far as you recollect, was there any other way of doing it suggested by anybody?

A. No, sir.

Q. 194. Or any necessity of any other way?

A. Of course there was not; it was done satisfactorily.

Adjourned to Saturday, September 30, at 9 o'clock a. m.

Deposition of Mary Sprague Resumed.

SATURDAY, *September* 30, 1876.

Direct examination continued by Mr. BUTLER:

Q. 195. I will ask you one more question, Mrs. Sprague; did you ever claim or receive any compensation for your service as administratrix or guardian?

A. No, sir; I never did.

Cross-examination by Mr. THURSTON:

Cross-Q. 1. Do you know any reason why your husband didn't have the estate of Amasa Sprague settled?

A. No; he did not want it settled, because he thought it would be a great deal better to keep it all together; better for the family and for himself to keep the property all together.

Cross-Q. 2. Do you know anything about how much the
323 estate of Amasa and William Sprague amounted to at the time of Amasa Sprague's death?

A. Oh, I don't know; but there was but very little then.

Cross-Q. 3. What means of knowledge have you as to the amount of the estate; I mean simply whether it was a large estate or a comparatively small estate?

A. Oh, it was a small estate that he left; there was but very little; it is very much enlarged.

Cross-Q. 4. You remember very well the time, do you not, when your son Byron sold out his interest in the property of A. & W. Sprague?

A. Oh, yes, sir; very well indeed.

Cross-Q. 5. You remember that he did not sell out his interest in the Quidnick property, belonging to A. & W. Sprague?

A. Oh, yes, sir; of course I do; he did not sell it out; he held that.

Cross-Q. 6. After your son Byron sold out his interest in the A. & W. Sprague manufacturing property, in 1862, did he entertain a kind of hard feelings towards Amasa & William?

(Objected to by Mr. Butler.)

A. Very hard feelings—very hard feelings towards them.

Cross-Q. 7. State what you did after 1862 to try to ascertain what your interest was in the A. & W. Sprague and the interest which you held for your grandchildren as guardian.

(Objected to by Mr. Butler as irrelevant and incompetent.)

A. Well my son was very anxious indeed to know how much my property was for myself and grandchildren.

Cross-Q. 8. Was not a lawsuit against A. & W. Sprague threatened soon after Byron Sprague sold out?

A. Well, I think there was.

Cross-Q. 9. Did you request your counsel to make any effort to obtain an offer from Amasa & William Sprague in cash for your interest?

A. I did.

324 Cross-Q. 10. Who was you counsel?

A. B. F. Thurston.

Cross-Q. 11. Who, during the controversy between you son Byron Sprague and Amasa & William Sprague, was your son's counsel?

A. Why you were—B. F. Thurston.

Cross-Q 12. What sum was offered to you, if you remember, for your interest?

A. Four hundred and fifty thousand dollars—at your office.

Cross-Q. 13. Did you conclude to accept it?

A. No, sir; I did not think it was enough.

Cross-Q. 14. What were you advised by your counsel and by your son as to whether it was enough or not?

(Same objection by Mr. Butler.)

A. Well, I was advised that it was not enough.

Cross-Q. 15. Did you ever know or hear that your counsel, Mr. Thurston, had ever, in any way, acted as counsel for Amasa or for William Sprague prior to the time when the business of the reference was concluded?

A. No, I never did; you—B. F. Thurston—acted wholly for my son.

Cross-Q. 16. From one of your answers yesterday, in connection with the question which was put to you, an inference might be drawn that Mr. John A. Gardner was, prior to the time of these reference proceedings, or at the same time, your counsel—do you mean to convey any such idea?

A. I never had anything to do with Mr. Gardner—to talk with him at all.

Cross-Q. 17. Has Mr. Gardner ever transacted any business for you, individually, of any kind?

A. Not until very late; this paper that I handed in I signed in his presence; that is all that I ever knew of his ever doing for me.

Cross-Q. 18. You mean the answer in this case, do you not?

325 A. Yes, sir; the answer that he brought here, and I signed it in his presence. That is all that I knew; I never employed him.

Cross-Q. 19. At the time when the answer referred to was brought to you at your house for signature, do you not remember that Mr. Zechariah Chafee and Mr. Thurston and Mr. Gardner and the United States commissioner, Mr. F. A. Daniels, came together to visit you at your house?

A. Yes, sir; they were all present at the time I signed it.

Cross-Q. 20. At the same time, was not Mrs. Byron Sprague also present?

A. Well, I am not sure whether she was or not, but I know all these gentlemen were present.

Cross-Q. 21. How many times was the answer read over to you before signing?

A. Mr. Chafee read it first.

Cross-Q. 22. Didn't Mr. John Gardner read it afterwards, aloud, twice?

A. Yes; he read it, of course; they both read it aloud to me.

Cross-Q. 23. Since you signed the answer, and quite recently, have you had in your possession and read a copy of the answer?

A. I have had a copy of it, and read it, and thought it was all right.

Cross-Q. 24. Is there any part of that answer that you desire in any respect to qualify or change?

A. There is one of my answers yesterday that I did not make as I ought to have done.

Cross-Q. 25. I mean the answer to the suit, not one of your answers yesterday. Is there any part of your answer which Mr. Gardner read here that you wish to alter or change?

A. No, sir; I did not answer right one thing that Mr. Butler asked me yesterday about the administration. I know the reason
326 that I did not take out an administration was because I thought it would be far better to let the property all remain as it always had been. It had remained together a good many years, and I preferred that it should go on together as it had. I was confused yesterday, and right away after I gave my answer yesterday I thought more about it. I believe I said then that I did not know what the reason was why I did not take it out, but of course I did know; it was that I wanted it to go on just as it always had gone on—together. I thought it would be a great deal better for me and for all. I am sure I have always done what I thought would be for the best.

Cross-Q. 26. I think, from the nature of your answer just given, you did not understand the previous question which I asked you. The previous question was, in substance, whether the answer that was read over to you by Mr. Gardner, in the presence of Mr. Chafee, Mr. Daniels, and Mr. Thurston, you desire in any respect to alter or to change?

A. No, sir; I do not. I could not see anything in it that I would like to change.

Cross-Q. 27. At any time, did Amasa and William, while they were in the management of the business, or Byron, Amasa, and William, when they three were in the management of the business, ever refuse you access to any of the accounts of the firm, or refuse to give you information on any subject concerning which you made inquiry?

A. No, they never did; they never did refuse me.

Cross-Q. 28. During the time that your son Byron was connected with the management of the business, did he or not frequently converse with you upon the business concerns and schemes of the firm?

A. He did; I knew very well what was going on as long as he lived.

Cross-Q. 29. State whether it was not his habit to make known to you all the business concerns and schemes which were under way from time to time?

327 A. He did, of course, always.

Cross-Q. 30. After your son Byron sold out his interest in A. & W. Sprague, do you know whether or not he was desirous of having the amount of his interest in the Quidnick property ascertained and settled?

A. He was; he wanted to know about it very much.

Cross-Q. 31. Do you know whether or not he had determined upon having a litigation with the firm unless the interest could be ascertained?

(Objected to by Mr. Butler.)

Cross-Q. 32. Do you know whether he had taken any steps to that end?

A. Well, I think he did.

Mr. BUTLER: State what you know.

The WITNESS: I do think that he did, and that was the reason that they had this bill to appraise the property.

Cross-Q. 33. Is it not true that in consequence of your efforts and your son's efforts to have your respective interests in the A & W. Sprague property, including the Quidnick property, definitely ascertained and settled, the plan of having a reference to arbitrators to ascertain the amount of such interest was finally arrived at and agreed to?

(Objected to by Mr. Butler.)

A. Yes, sir; that is correct.

Redirect by Mr. BUTLER:

Q. 196. In reference to the value of the property at the time of Amasa Sprague's death, did you get your information from your husband?

A. Well, I don't know there ever was any. You mean at the time of the old gentleman's death?

Q. 197. Yes.

A. I don't know as there ever was.

328 Q. 198. You don't understand the question; you said there was very little estate when Amasa died?

A. There was but very little; the estate was small, for when I was married there was very little; it was all made after I was married; of course it did not gain so much then as it did afterwards when there was more.

Q. 199. Do you know or did you know at the time what the value of the property was when your husband died?

A. No, never; I never knew anything about it.

Q. 200. Did you know what the value was when Byron sold out his interest?

A. No, sir.

Q. 201. Did you know that there was a careful appraisement made by Mr. Holmes and Mr. Frieze of the entire property and the value of it, including the value of the right of dower of yourself and Mrs. Fanny Sprague?

(Objected to by Mr. Thurston because it assumes that such appraisement was in fact made of the Quidnick property, as well as the property of the A. & W. Sprague Company.)

Question withdrawn by Mr. Butler.

Q. 202. Did you know that the value of Byron's interest in the A. & W. Sprague property, and which he sold to Amasa and William, was appraised at the time of the sale of Byron; did you know that at the time?

A. Yes, sir; I did know it.

Q. 203. Who were the appraisers when Byron sold out?

A. Mr. Thurston, Mr. Gardner, and Mr. Corey.

Q. 204. Do you know of any other appraisal made at the time Byron sold out, in 1862?

A. Well, this was done before we sold out.

Q. 205. I think you are mistaken. Please state whether you ever heard of any other appraisal of the A. & W. Sprague property except that made by Thurston and Gardner.

329 A. No, sir; I don't know anything about any other; I never heard of any other.

Q. 206. Then if, in fact, in 1862, when Byron sold out, there was an appraisal of the property of A. & W. Sprague you never heard of it?

A. Well, I don't know, I am sure.

Q. 207. You don't recollect now of ever hearing of it?

A. No, sir; and you ask me so many questions that I don't understand what I did know once.

Q. 208. Do you recollect ever hearing of any appraisal being made of the A. & W. Sprague property by Mr. Holmes and Mr. Frieze at the time Byron sold out?

A. No, sir.

Q. 209. Did you know, Mrs. Sprague, what Byron received for his interest when he sold it out?

A. I think that he received six hundred thousand dollars, or somewhere like that. I never knew exactly what he did get.

Q. 210. Did you know how that $600,000 of value was arrived at?

A. No, sir.

Q. 211. After Byron sold out you say he had hard feelings against Amasa and William?

A. He did.

Q. 212. Do you know what caused that?

(Objected to by Mr. Thurston as incompetent.)

A. Well, they had difficulty; I don't know.

Q. 213. Was it in reference to the property?

A. Yes, sir; I think it was.

Q. 214. Had he not sold out and received his interest?

A. Yes, sir; he received his interest.

Q. 215. What was there to cause hard feelings, then?

A. Well, it is difficult for me to tell what it was. They did not agree at all—not in the office.

Q. 216. Was he in the office after he had sold out?

330 A. He never was in the office after that—not to do any business; he was not there after he sold out.

Q. 217. Now, was there not hard feeling before he sold out?

A. Yes, sir; I think there was.

Q. 218. Did you know that before he sold out, and for a considerable time before, there was very hard feeling between him and William Sprague?

A. Yes, sir.

Q. 219. Was not that one of the things that he was in the habit of making known to you?

A. Oh, I don't know about that; but I don't know what caused it.

Q. 220. I don't ask that; but didn't he make known to you that there was hard feeling?

A. Yes, sir; I knew that there were hard feelings, of course.

Q. 221. Did you sympathize with him or with Amasa and William?

A. Oh, I sympathized with my son.

Q. 222. Did you ever threaten any lawsuit against anybody?

A. No, sir; I never did.

Q. 223. Did you ever hear Byron threaten any lawsuit against anybody?

A. Well, I think he did—against the firm.

Q. 224. To whom did he make the threat?

A. Well, I think towards William and Amasa.

Q. 225. Did he make the threats in your presence to them?

A. No, sir; not in my presence.

Q. 226. Well, to whom did he make any threats that you ever heard him make?

A. Well, I expect to them; I never heard it.

Q. 227. Who told you that a lawsuit was threatened?

A. Well, I knew at the time.

Q. 228. Who told you?

331 A. My son told me; he used to talk all his business here in my house when he came home at night.

Q. 229. Mr. Thurston, as I understand, was Byron's counsel?

A. Yes, sir; he was.

Q. 230. Do you mean to say that he was your counsel separate from Byron or was he acting for both?

A. Well, he acted for both.

Q. 231. You never paid Mr. Thurston counsel fees or compensation for professional services from your private means, did you?

A. I never had any private means to pay with.

Q. 232. He never rendered you any bill?

A. No, sir; of course not; he could not have got his pay if he had, for I had nothing.

Q. 233. When you say, Mrs. Sprague, that you had no private means, I suppose that you mean that all matters of expense of this nature were paid by your son, or at the office?

A. Yes, sir.

Q. 234. Now, how do you know that Mr. Thurston never acted for A. & W. Sprague as counsel?

A. Well, I don't think he ever did; I take his word for it; of course I don't think he ever did.

Q. 235. Then what you have testified to about that is from what he has told you?

A. Well, I think that he never did; I know that he never did.

Q. 236. Because he told you so?

A. Because he told me so; ought I not to believe it?

Q. 237. The time you speak of when $450,000 was offered at Mr.

Thurston's office and declined by you, was that before or after Byron sold out?

A. It was after he sold out; it was afterwards.

332 *A.* 238. Was it before or after the appraisal had been made by Mr. Thurston and Mr. Gardner?

A. Oh, it was afterwards.

Mr. THURSTON: She does not understand the question.

Q. 239. Think a moment, if you please, Mrs. Sprague; have you any recollection by which you can fix the time when that offer was made?

A. Well, it was as much as six years ago, I think; I should think it was about that time; I can't say exactly.

Q. 240. Well, you don't connect it, then, with the appraisal made by Mr. Thurston and Mr. Gardner?

A. No, sir; there was no connection or anything about it, for I had a letter written (not very long ago I had a copy of it, and I was very sorry that I did not keep it) as to what William would give me if he would buy me out; and he answered me and said I could meet him at such a time at Mr. Thurston's office and he would tell me what he would do; and I went there as he said at the hour he appointed, and he said, "What are you going to do with the money, Aunt Mary, if I pay it to you?" and I said, "I think I can take care of it;" and he offered me $450,000, and I did not know whether to accept of it or not; I did not accept the offer then, and Mr. Thurston told me afterwards not to take it; it was sacrificing too much, and it would not do; and I thought I ought to have as much as my son had; but I am very sorry now I had not taken it.

Q. 241. When this party of gentlemen came here with the answer, was that the first that you had heard of the answer?

A. Oh, no, sir; I knew——

Q. 242. You knew you had to put in an answer?

A. Oh, yes, sir; I knew that they were coming.

Q. 243. Had any one of them come to see you before about it?

333 A. No, sir; there had not anybody been to the house before.

Q. 244. Did you sign the paper that Mr. Gardner read over to you as your answer?

A. Yes, sir.

Q. 245. Were any alterations made in it?

A. Not at all; I have had a copy of it.

Q. 246. No alterations were made in it?

A. No alteration at all; it was just as it was when I first heard it read.

Q. 247. Do you know whose composition it was—who wrote it or made it up?

A. Well, I think Mr. Thurston did it; I don't know which one of them did it; I did not ask particularly about that which one did.

Q. 248. You say you have recently read it over; when was that, Mrs. Sprague?

A. Last week, and my daughter read it to me two or three times over, and I was perfectly satisfied with it.

Q. 249. Was it before or after you went to Mr. Allen's?

A. It was afterwards; the writing was so bad that I could not read it very well; I cannot read the lawyer's writing very well.

Q. 250. Well, you had it read to you the last time after you had been subpœnaed as a witness?

A. Yes, sir, over and over; I can prove here that my daughter read it to me, and very plain, so that I could understand a great deal better than if Mr. Thurston had read it.

Q. 251. You stated a little while ago that neither Amasa or William or Byron ever refused you access to their books?

A. No, sir, they never did.

Q. 252. Did you ever ask them to let you see their books?

A. No, sir; I never asked them.

Q. 253. You never asked to see the books?

334 A. No, sir.

Q. 254. Did you ever send anybody there to examine the books?

A. No, sir; I never did.

Q. 255. Did Mr. Thurston ever advise you that you ought to send any one there to examine the books?

A. Yes, sir, he did, and he wanted to go himself, but I would not let him; and I have been sorry that I didn't (that was several years ago—soon after my son died); for I could not know anything about the business, and he wanted that I should send.

Q. 256. Give me the date of your son's death.

A. He died ten years ago the 30th day of July; he died July, 1866.

Q. 257. Can you recollect from whom you first heard of the plan of a reference to Mr. Thurston and Mr. Gardner?

A. From my son Byron.

Q. 258. And you think that it was owing to Byron's efforts that this plan was brought about?

A. Yes, sir; I do; it was all brought about by him.

Q. 259. And you think it was because he could not get his interest in the Quidnick settled up?

A. I think it was on account of his own and also mine; he wanted to know what my interest was and what the children's was.

Q. 260. Did Byron propose that Mr. Thurston and Mr. Gardner should be the referees?

A. Yes, sir; he proposed it and Mr. Corey.

Q. 261. Did Byron claim that anything was due to him from A. & W. Sprague—that they owed him anything after he sold out?

A. No, sir.

Q. 262. Then all his interest was in the Quidnick?

335 A. Yes, sir; his only interest was in the Quidnick; he sold out his interest in the A. & W. Sprague.

Q. 263. Did Byron ever explain to you why he wanted a settlement through the arbitration or appraisal of Messrs. Thurston and Gardner in preference to going into court for it?

A. Well, he wanted it settled so that we might know what our property was—what we had; he was very anxious to know what my portion was.

Q. 264. I understand you to mean that he was anxious to know as between Amasa and William what you were entitled to.

A. Yes, sir; what I was entitled to and my grandchildren.

Q. 265. You took no advice, and consulted with no one except your son and Mr. Thurston?

A. No, sir; never.

Recross resumed by Mr. THURSTON:

Cross-Q. 34. One of your answers to Mr. Butler's last questions is not quite clear; didn't William offer you the $450,000 some little time before the reference to Mr. Gardner and Mr. Thurston to appraise the property was made?

(Objected to by Mr. Butler.)

A. You know I am so forgetful. I could not say what time it was, but I remember about the circumstance and his offering me this. You would not let me take it, and I blamed you some for that, you know.

Cross-Q. 35. How much more did you find your interest was really worth than William offered you for it?

A. Well, you said it ought to be worth six, seven, or eight hundred thousand dollars, and I thought it ought to be worth that.

Cross-Q. 36. Didn't the result of the reference show that your interest was as great as that?

336 A. It did; well, I could tell pretty near. I don't know, but if I should look up my papers (Mr. Corey brought me the papers to show what the reference was).

Cross-Q. 37. Now, I will ask you directly the question, whether it is not true that because William was willing to give you only so small a sum as $450,000 for your interest it was determined to insist upon a reference to find out your interest and the interest of your grandchildren?

Mr. BUTLER: Answer only from your recollection. You said once that you did not associate this offer with your notice at all.

A. Well, I think it was; yes, sir; it was determined to find out whether I had more or not.

Redirect resumed by Mr. BUTLER:

Q. 266. You think now the reason why you had the reference was because William made you so small an offer?

A. Yes, sir; I think so. Mr. Thurston defended me.

Q. 267. Did William ever make any offer to you except the $450,000?

A. No, sir; that was all that ever was said or done about it.

Q. 268. And that was for your interest?

A. Yes, sir; for my whole interest.

Q. 269. Individually?

A. Yes, sir.

Q. 270. Did he ever make any offer for the interest of the children?

A. Never.

Q. 271. Did you come to a conclusion at that time how much the offer ought to have been—I mean by any examination of the books or any figures?

A. No, sir; not at all; I did not, for I did not understand. Mr. Thurston, of course, understood a great deal better than I
337 did, but I should have taken the $450,000 if it had not been for Mr. Thurston.

Q. 272. But you did suppose that your interest was worth at that time a great deal more money than was offered you?

A. Yes, sir; I did; I thought it was worth more than that; but still, I was very willing to take up with that, and should have done it if it had not been for Mr. Thurston, and I blamed him a good deal afterwards; he did not get much credit with me for that.

On hearing the deposition read to her, Mrs. Sprague wishes to change her answer to the fourth question so that it will read that "Amasa was the older;" and to the 79th question, "My husband did not buy out Byron's interest."

(Signed) MARY SPRAGUE.

Subscribed before me—

SAMUEL W. PECKHAM, *Examiner.*

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } ss:
City, County, and State of New York, }

Be it remembered that on this thirtieth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me at No. 111 Broadway, in the city of New York, in the said southern district of New York, in the State aforesaid, William S. Hoyt, to testify and the truth to say on the part and
338 behalf of the complainants in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the district of Rhode Island, wherein William S. Hoyt is complainant, and Amasa Sprague and others are respondents, and in a certain other suit now pending and undetermined in said court, wherein Charles G. Francklyn and another are complainants, and the said Amasa Sprague and others are respondents; and the said William S. Hoyt being about the age of thirty years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said

William S. Hoyt, and he did thereupon depose, testify, and say as follows, viz:

By Mr. BUTLER:

Q. Please state where you reside.
A. Pelham.
Q. Westchester county?
A. Yes, sir.
Q. What is your age?
A. Thirty.
Q. When did you become 21 years of age?
A. January 1, 1868; I was born January 1, 1847.
Q. You are the son of Edwin Hoyt, late of the city of New York, and of Susan S. Hoyt, his wife, who was a daughter of William Sprague, of Providence, R. I.?
A. Yes, sir.
Q. Please state the date of your mother's death.
A. October 28, 1853.
Q. Did she reside in the city of New York after her marriage with your father and up to the time of her death?
A. She resided in the city of New York, but did not die in the city of New York; she died in Astoria, Long Island, at my father's country house at that place.
339 Q. State where your father resided in the city of New York.
A. No. 94 Fifth avenue.
Q. Were you born there?
A. I was born there.
Q. Have you lived in the city of New York and its vicinity all your life?
A. I have.
Q. Do you recollect the time of your grandfather's (William Sprague's) death?
A. I do.
Q. Go right on and state when it occurred.
A. It occurred in 1856; in the fall of the year; I remember my father going on there on account of his illness.
Q. You remember the fact of your grandfather's death at that time?
A. Yes, sir; I went on to the funeral myself.
Q. Please give the names of your brothers and sisters and their ages.
A. Their present names?
Q. Give their Christian names.
A. Sarah H. Lee, wife of J. Bowers Lee; Susan S. Francklyn, wife of Charles G. Francklyn, and Edwin Hoyt.
Q. Are these all the children of your father and mother?
A. Those were all.
Q. And are all living?
A. All living in this city.

Q. Mrs. Mary Sprague, of Providence, R. I., one of the defendants in this suit, is your maternal grandmother?

A. Yes, sir.

Q. Please state how frequently you have been in the habit of seeing her, either in the city of New York or in Providence.

A. Until within the last few years I generally saw her at least once in the year; I think I have seen her almost every year
340 generally here; I suppose I have seen her there as much as here—in both places.

Q. Please state how it has been in reference to your seeing either Amasa or William Sprague, the defendants in this action, during the same time.

A. I saw less of them than I did of my grandmother.

Q. Please state when you first became aware of the fact that your grandmother, Mrs. Mary Sprague, had been appointed guardian for you in the State of Rhode Island.

A. I do not remember that I was aware of the fact during the time that she was guardian; I think not until after she had ceased to be guardian.

Q. Do you recollect how you first became aware of the fact?

A. No; I do not.

Q. Or when it was?

A. That I don't know; I think I do remember now the circumstance; that my eldest sister was of age at the time that Mrs. Sprague gave up the guardianship, and she signed a release to her grandmother as guardian; that circumstance brought it to my knowledge, the fact of her signing that release to her grandmother as guardian.

Q. When was that?

A. I suppose it was in 1866 that the change took place, although I don't remember it.

Q. I mean when your sister came of age?

A. She became of age, I think, in 1865.

Q. Please state whether, at any time, you ever received any notice, account, or other communication of any description whatever from Mary Sprague as your guardian.

A. Not to my recollection.

Q. Please state whether or not you ever received any notice or communication from Mrs. Mary Sprague or from any person in reference to her proposed or actual resignation of her guardianship.

341 A. Not that I remember of.

Q. Please state whether or not you ever received any notice or communication in reference to any application for the appointment of William Sprague as guardian for you in the place of Mrs. Mary Sprague, or of his appointment as such guardian.

A. Not that I remember.

Q. Did you ever have any interviews with or communications by letter from William Sprague as your guardian?

A. I received accounts from him as guardian, and I received one letter from him.

Q. Go right on and state how many accounts you received.

A. I think I received four; there are three there, but there is one missing, I think.

Q. With the exception of the account which is missing, are those all the accounts you ever received from him?

(Papers shown witness.)

A. Those are all the accounts I ever received from him.

Q. These accounts are made up, respectively, to the 31st October, 1870, 1871, and 1873; is the missing account you have referred to the account made up to October 31, 1872?

A. Yes, sir; if that one does not appear there.

Q. And these are all the accounts you ever received?

A. Yes, sir; with the exception of that one for 1872.

(Above accounts of 1870, 1871, and 1873 offered in evidence on behalf of William S. Hoyt, complainant, marked Plaintiff's Exhibits 1, 2, and 3, respectively, January 30, 1877.)

Q. Please answer now in respect to interviews with William Sprague as your guardian?

A. I never had but two interviews with him in his character of guardian; the first was at the Hoffman House in November, 1871, and consisted in my asking him if I could draw for $3,500, and he told me to do so; he told me to get all I could first out of my
342 father, as the old man was stingy; that was the extent of that interview; the second was at his country place at Narragansett Pier, R. I., I think, in the following year; it was in the summer, July or August, I should imagine, though I can't tell particularly about that, and I asked him if I had any income on which it was necessary that I should pay tax here in New York; he told me that there was, and I should find out in the office at Providence by asking the book-keeper, which I did, and the book-keeper gave me certain figures upon which I paid in New York.

Q. Have you stated all the interviews you ever had with William Sprague in reference to any matter connected with the guardianship?

A. Those are all.

Q. These are all prior to the failure of the A. & W. Sprague Manufacturing Co.?

A. Yes, sir; after that I made a demand on him for the property, which he refused to comply with.

Q. State now, if you please, as to any written communication from him.

A. I had one letter, which I received in November, 1872, I think.

(Letters produced and shown to witness.)

Q. Please state if that is the letter to which you refer.

A. That is the letter.

Above letter offered in evidence, marked Pl'ff's Ex. 4, January 30, 1877.

Q. State whether or not that letter was in reply to a letter written by you to William Sprague in November, 1872.

A. I am not sure about that; I may have written for some money

which called forth that reply, but I don't remember; on referring to the letter I find it was in reply to one that I had written.

Q. Please state when you first learned that no accounting
343 had been had by Mrs. Mary Sprague as administratrix of your grandfather, William Sprague.

A. Not until immediately previous to the filing of our bill in equity.

Q. When did you first learn the facts which are stated and set forth in the bill of complaint in this case in reference to your interests and rights in the property of A. & W. Sprague?

A. We began making investigations soon after the failure of Hoyt, Spragues & Co. and the A. & W. Sprague Manufacturing Company, but it was some time before we learned the different facts which we now know.

Q. State in what manner you became aware of those facts.

A. By legal measures.

Q. Please state what you did after the failure of the two firms in reference to your rights and interests, and state how you ascertained the facts to which I have referred in the previous question.

A. In the accounts which had been sent from William Sprague, guardian, there appeared a balance to my credit; I went to Washington and made a demand from him for that balance, which he refused to pay; we then instituted legal proceedings, and it has been in the course of those legal proceedings, through the records and such, that we have arrived at the facts we are now in possession of.

Q. In 1865, had you any knowledge or information in reference to any proposed agreement or appraisal between A. & W. Sprague and other parties interested in the property in their hands?

A. Not that I remember.

Q. I refer to the agreement marked Ex. C, annexed to the bill of complaint in your cause, and the report of referees, marked Ex. D; and I ask you whether, at the time of the agreement and report, you had any knowledge or information in reference to them?

344 A. I remember nothing of it, and if I had any knowledge I probably should remember it.

Q. Were you, at any time prior to the failure of Hoyt, Spragues & Co. and the A. & W. Sprague Manufacturing Co., informed by any one of the situation of the property, or the nature or extent of your interest therein?

A. Well, I knew something about what my interest should be, because I knew how the property had originally belonged to Amasa and William, and I was one of the heirs of my grandfather, so I knew about what my proportion of the property was, but how it was situated I did not know.

Q. Did you know or had you been informed in any way of the particular steps and proceedings which had been taken in Rhode Island in reference to this property, or the distribution of it amongst the parties interested?

A. Up to what time?

Q. Up to the time of the failure?

A. No; I did not know the particular steps they had taken.

Q. Did you ever make any inquiry of any one, and, if so, of whom, in regard to the property and your interest in it?

A. I wrote once for a list of certificates standing in my name, which was sent me by Green, the book-keeper.

Q. You mean the list of the certificates of stock in the A. & W. Sprague Manufacturing Co.?

A. A list of whatever there might be; I did not specify.

Q. Beyond this, did you make any inquiry of any one else?

A. Not that I remember of.

Q. What statement, if any, was made to you by your father in reference to the situation of the property?

A. That it was perfectly safe; that my interest there was perfectly safe.

Q. Beyond this statement that the interest was perfectly safe were you furnished by him with any information in regard
345 to the character or situation of the property, or the way in which your interest in it was secured or represented?

A. I knew it was represented by a certain number of shares in the corporation.

Q. (Repeated.)

A. He did not furnish me with any other information as to how it was situated.

Q. State whether or not you made applications to your father in reference to your desire to get your interest out of the property.

A. I did on several occasions.

Q. What was the result of those applications?

A. That I was dissuaded from doing anything.

Q. State generally what was said to you on the subject.

A. He would tell me in so many words not to do anything—to remain quiet—that my property there was perfectly safe; that it was to my best interest to turn my attention to the business affairs here.

Q. State what you did or forebore to do on that statement.

A. I forebore to take such steps as I otherwise should have taken to gain at least some more definite knowledge of the situation of the property.

Q. State whether or not, when you commenced proceedings in Rhode Island against William Sprague, you were aware of the fact that Mrs. Mary Sprague had not rendered any account as administratrix.

A. I was not.

Q. When did you first discover that fact?

A. Only a short time previous to the filing of the bill.

Q. How was it as to your knowledge or ignorance of that fact when you accepted the shares of the Quidnick stock that were turned over to you?

A. I was ignorant of that fact.

346 Q. Did your guardian, William Sprague, ever communicate to you verbally or in writing, or in any way, the agreement marked C, annexed to the bill of complaint, or any of the facts or matters connected therewith?

A. He never did.

Q. Did he ever inform you in any way in what manner the property of the firm of A. & W. Sprague had been turned over to the A. & W. Sprague Manufacturing Company?

A. No, sir.

Q. Did Mrs. Mary Sprague ever give you any information on that subject?

A. Not to my recollection.

Q. You have spoken of the examination of records; please state whether or not an examination of the records was made by the attorneys employed by you to examine into the matter and ascertain what your rights were.

A. Yes, sir; such an examination was made.

Q. And this, as I understand, was after the failure of the A. & W. Sprague Manufacturing Company?

A. Yes, sir.

Q. Up to that time had anything occurred or was there any fact within your knowledge prompting you to make any such examination?

A. There was not.

Cross-examined:

Q. Do I understand you correctly that you received another account current than those you have produced and that such account current is mislaid?

A. Yes, sir.

Q. Look at the account shown you and state whether, according to your best judgment and belief, the same is a copy of the account so mislaid or lost.

(Account shown witness.)

347 A. If it fits in between the others I have not any doubt about it. (After looking:) Yes, sir; I believe that is the one.

Above account current offered in evidence, marked Pl'ff's Exhibit 5, Jan'y 30, 1877.

Q. Do you know Theodore Reeves, the person who appears to have witnessed the signature of your grandmother, Mary Sprague, in her individual capacity and as administratrix and as guardian?

A. I don't remember anybody by that name; I remember a carman we used to have by the name of Reeves who was with the firm, but I don't think it was that person.

Q. Were you an inmate of your father's house on Fifth avenue in 1865?

A. I was.

Q. Have you no recollection that in the month of April, 1865, or thereabouts, your grandmother, Mary Sprague, signed the agreement marked C at your father's house, and that her signature was witnessed there by one Theodore Reeves?

A. I have no such recollection.

Q. Have you no recollection of the transaction [of] which the agreement marked C was expressive—I mean have you no recollection

that there was a plan on foot to have the property appraised and the interest of all the owners in that property ascertained?

A. I have not.

Q. Please look at the several documents and papers now shown you and say whether the same are not papers written by you and the signature to the same your signature.

A. Yes, sir; I believe that is mine.

(Defendant offers in evidence the following papers marked "Exhibits William S. Hoyt, letters A to Z, inclusive, and AA to OO, inclusive.")

348 Q. Were you occupied in any business in 1865; and, if so, what?

A. No, sir; I was not; I made a purpose of being at the store generally, but I was not in any business.

Q. Were you engaged at that store in any occupation or have any duties?

A. I don't think that year I had any particular position; I left college in that year.

Q. Did you know the fact that Byron Sprague had ceased to have any further connection with the firm in 1862, and had sold out his interest?

A. I can't remember when it first came to my knowledge that he had sold it.

Q. How often did you visit your grandmother, Mary Sprague, in Providence, prior to 1865?

A. I should think, on an average, once a year.

Q. Was your grandmother frequently in the habit of visiting your father's house in New York and at Astoria?

A. You mean about that time?

Q. Yes; prior to 1865?

A. As far as my recollection goes, she used to come on generally for a visit once in each year.

Q. Do you know anything concerning the state of feeling that existed between your grandmother and William and Amasa Sprague after Byron Sprague had sold out his interest?

A. I frequently heard my grandmother express very bitter feelings against William Sprague.

Q. Do you not know that she was in that state of mind between 1862 and 1865?

A. I did not know it at that time, as far as I can remember.

Q. Did you not know after you began to receive accounts from the corporation and make the inquiries expressed in your letters
349 that you had an interest in a definite number of shares of stock in the A. & W. Sprague Manufacturing Co. and the Quidnick Company?

(Objected to, as the question assumes a fact not proved—that the witness received accounts from the A. & W. Sprague Manufacturing Co.)

A. I never received any accounts from the manufacturing Co., only from William Sprague, guardian.

Q. Those accounts contained items of dividends from the A. & W. Sprague Manufacturing Co. and the Quidnick Co., did they not?

A. Yes, sir.

Q. Did you not know the number of shares that you were receiving dividends from?

A. Not until I wrote to Mr. Green to ascertain.

Q. Do you refer to the letter which has been put in evidence already?

A. I do.

Q. You were then informed, were you not?

A. Mr. Green sent me a list of securities.

Q. And among them was the number of shares of stock in the Sprague Company and the Quidnick Company in which you were interested?

A. There were.

Q. In the letter which has been put in evidence by the complainant from William Sprague to you, in which reference is made to the $44,000 special fund credited to your account, is that the first information that you had that such special fund was the sum belonging to you to equalize the drafts drawn by the families of Amasa and William Sprague for household expenses?

A. I never was able to ascertain how that fund came to be there at all; it was always a mystery to me.

Q. Gov. Sprague's letter gave you then such information as you have?

350 A. Gov. Sprague's letter gave certain information according to his view of it.

Q. Were you in the habit of conversing with your father concerning your affairs?

A. Occasionally.

Q. Did your father ever refuse to give you any information which was within his knowledge concerning the affairs of the A. & W. Sprague Manufacturing Company and your interest therein?

A. He never did.

Q. After you became of age, and up to the time of the failure of the A. & W. Sprague Manufacturing Company, did you ever apply for any information which was refused?

A. Up to the time of the failure, no.

Q. Have you not been present at meetings of the corporation, the A. & W. Sprague Manufacturing Company?

A. Never until after the failure.

Q. You became of age in 1868?

A. Yes, sir.

Q. From that time until the failure of the corporation was not Gov. William Sprague occupied, during the majority of the time, in the discharge of his duties as Senator in Congress at Washington?

A. I believe he spent most of his time in Washington.

Q. Did Amasa Sprague ever refuse you access to any information which you desired from the books of the company?

A. No, sir.

Q. Did William Sprague ever refuse you such access?

A. No, sir.

Q. Did any officer of the company having the books in charge ever refuse you access to the books of the company?

A. No, sir.

Q. Please answer the three preceding questions with reference to the Quidnick Company?

351 A. I make the same answer in regard to the Quidnick Company.

Q. Please look at the papers now shown you, and state whether the same are powers of attorney executed by you as purporting to be on their face.

A. Yes, sir; this is executed by me.

Q. Have you any letters from William Sprague other than those you have put in evidence?

A. No, sir.

Q. Have you any letters or notices from the A. & W. Sprague Manufacturing Company or Quidnick Company?

A. I have none.

Q. Did you not receive, on the 31st day of March, or thereabouts, 1870, a notice of a meeting of the A. & W. Sprague Manufacturing Company?

A. I don't remember it.

Q. Can you say that you did not?

A. No; I can't say that I did not.

Q. Did you not receive from time to time notices of such meetings?

A. I think I remember having received a notice, *or* whether more than one I could not say.

Q. Did you not receive, March 18, 1871, or thereabouts, in due course of mail, a notice of a special meeting of the A. & W. Sprague Mannfacturing Company?

A. I don't remember.

Q. Wiil you say you did not receive such notices?

A. I can't say that I did not.

Q. Do you recollect of receiving, in due course of mail, a notice, dated Sept. 5, 1872, of a meeting of the A. & W. Sprague Manufacturing Company?

A. I do not remember.

Q. Have you any recollection of a notice dated on the 24th September, 1872. for a special meeting of the company?

352 A. No, sir.

Q. Have you any recollection of a notice dated October 28, 1873, of a special meeting of the A. & W. Sprague Manufacturing Company?

A. Was that after the failure?

Q. No; a few days before.

A. Because there was a meeting that I attended immediately after the failure; I can't fix the exact date; whether it was in answer to that—I can't fix the date; I do not remember receiving the document.

Q. Did you never make inquiry of your grandmother, Mary Sprague, as to the amount of property or the character of the property which she represented as guardian for you?

A. No, sir; not to my recollection.

Q. Do you mean to say that you do not understand that some proceedings were had to find out your interest in the property that you inherited from your grandfather?

A. The first thing that I remember about the specific interest of each one was the fact of my eldest sister signing the release to her grandmother as guardian for a certain number of shares.

Q. You mean Mrs. Lee?

A. Yes, sir.

Q. Many of your letters which have been put in evidence are addressed A. & W. Sprague. Were not the answers to those letters in all cases, except where they were personally addressed William Sprague or to Mr. Greene, returned in the name of A. & W. Sprague M'f'g Co.?

A. I think they were generally written by Green; I can't say who signed them, but I think Green signed them, too; he may have signed The A. & W. Sprague M'f'g Co., per Green.

Q. You had no particular purpose in addressing your letters A. & W. Sprague, as distinguished from the A. & W. Sprague M'f'g Co.?

353 A. I addressed my letters merely to them as acting in the Governor's absence for him.

Q. But you did not understand, did you, that the business in Providence was conducted at the time when those letters were written by A. & W. Sprague, did you?

A. I knew at that time that it was the manufacturing company.

Redirect:

Q. When did you first learn, as near as you can recollect, that shares of stock in the A. & W. Sprague M'f'g Co. represented or had any reference to your interest in the property of A. & W. Sprague?

A. The first absolute knowledge of those shares, and of the number of them, came to me in the reply to my letter to Green, asking him what certificates there were belonging to me.

Q. Up to that time had William Sprague, your guardian, given you any information upon the subject?

A. He had never spoken to me on the subject, to my recollection.

Q. Had you any knowledge as to what were the requirements of the law of the State of Rhode Island in respect to the duties of administrators or of guardians?

A. None whatever.

Q. Had you any knowledge or information as to the manner or basis in or upon which property of the A. & W. Sprague firm had been turned over to the A. & W. Sprague M'f'g Co.?

A. Not until we took legal measures to investigate it.

Q. How did it happen that you communicated at any time with

the company—if you did so—in any of these letters that have been produced in evidence?

A. I would simply write to them as the Governor's agents in his absence; the Governor was not there, and they were the only people to write to.

354 Q. State whether or not you supposed and assumed, until the discovery of the facts made by you after the failure, in reference to which you have already testified, that all things in reference to the administration of the estate of William Sprague and the guardianship of your property had been legally and rightfully done.

A. I supposed it had.

Q. Did you suppose at any time, or assume or suspect, that any illegality or any invalidity existed in reference to any of the matters connected with such administration or guardianship, or the transfer of the property by A. & W. Sprague to the A. & W. Sprague M'f'g Co.?

(Objected to, as the question assumes some illegality had been committed.)

A. I did not.

Q. You stated in your cross-examination that your father never refused you any information; please state to what extent the general assurance of your father, as to the safety of the property referred to in your direct examination, operated upon your mind in reference to further inquiry.

A. It was calculated to calm any doubts I might have as to the safety of the property.

Q. What was the actual effect?

A. The actual effect was to prevent me taking any measures for its security.

Q. Did you know at any time how the shares of stock to which you have referred stood on the books of the company—in whose name they stood?

A. No.

Recross:

Q. Did you not at some time ascertain that your stock, both in the Quidnick Company and in the A. & W. Sprague M'f'g

355 Co., stood as follows: "William S. Hoyt," followed by the words "William Sprague, guardian," in brackets?

A. No, sir.

Q. You say that the statements made by your father tended to allay any apprehensions you may have had as to the safety of the property; did you not well understand the kind of business in which the A. & W. Sprague M'f'g Co. were engaged?

A. Yes; I did.

Q. You knew that it was the business of manufacturing print cloths and printing them to calicos?

A. I did.

Q. Did you not know that the entire product of the A. & W.

Sprague M'f'g Co. was consigned to the house of Hoyt, Sprague & Co. in New York for sale?

A. I think most all of it was.

Q. Your father was the senior member of that firm, was he not?

A. Yes, sir.

Redirect:

Q. As I understand it, after you became of age you made some inquiries of your father in reference to the condition of the property, and received from him the general assurance from time to time that it was entirely safe; is that so?

A. Yes, sir; that is so.

Q. Do you or not mean to be understood that such inquiries were prompted by any knowledge or information in respect to any illegality or invalidity in any of the proceedings in the State of Rhode Island in respect to the administration of your grandfather's estate or the guardianship of your property?

(Objected to.)

A. No, sir; simply because I wanted to get the control of my own affairs.

356 Q. Please state more specifically what the inquiries were that you made of your father.

A. The inquiries were not as to the condition, so much, of the property, but if there were not some way in which I could gain possession of it. I knew that Gov. Sprague used immense amounts of money.

(Objected to.)

WITNESS (continuing): Gov. Sprague used a good deal of money, and I had but very little myself, and I thought it was an unequal arrangement.

Q. The point of my inquiry is whether the information you sought from your father had reference to the mode or steps by which the property had been converted into the possession of the manufacturing company, or as to the safety and security of the investment in the shares of the company.

A. It was more as to the safety; it was not at all as to the legality or illegality by which it had been placed there.

Q. Now, I ask you whether, before the failure of the company, any act or thing ever occurred, or came to your notice, which prompted you to make inquiry or excited suspicion in reference to the method in which the property had been changed from the possession and ownership of A. & W. Sprague into that of the manufacturing corporation?

A. No, sir.

Q. Your father never was appointed guardian of your personal property, was he?

A. No, sir.

The counsel here stipulate that copies of such papers as have been introduced in evidence in connection with the foregoing deposition

may be annexed hereto with the same force and effect as if the originals had been annexed.

It is stipulated that the testimony of this witness and the other witnesses to be examined on behalf of the complainant be taken down and written out by the stenographer with like effect
357 as if written down by the commissioner in person, and is to be read over to the witnesses and signed by them respectively, and authenticated by the commissioner and transmitted to the clerk, in accordance with the equity rules, and that said testimony shall be used in both the above-entitled actions and in any proceedings therein with like effect as if separately taken in each of said actions.

W. S. HOYT.

Subscribed and sworn to before me this 20th day of February, 1877.

[SEAL.] JAMES H. GILBERT,
U. S. Commissioner, Southern District of New York.

EXHIBIT "W. S. HOYT, QUIDNICK STOCK AND POWER OF ATTORNEY."
J. H. G., U. S. C.

No. 33. Capital, $500,000. 123 shares.

The Quidnick Company, Providence, Rhode Island.

Incorporated 1862. 5,000 shares $100 each.

This is to certify that William S. Hoyt, of New York, is the owner, at the date hereof, of one hundred and twenty-three shares of the capital stock of the Quidnick Company, which are transferrable only upon the books of said company, at their office in Providence, R. I.

[SEAL.] WM. SPRAGUE, *President.*

THOMAS A. WHITMAN, *Secretary.*

Providence, R. I., December 8th, 1873.

358 STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally appeared the within-named William S. Hoyt and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, N. Y. City.*

Know all men by these presents that I, William S. Hoyt, of the city of New York, for and in consideration of the sum of thirty thousand six hundred and fifty dollars, to me paid by Charles G. Francklyn the receipt whereof is hereby acknowledged, do hereby give, grant, bargain,

sell, assign, transfer, and set over to him, the said Charles G. Francklyn, one hundred and twenty-three shares of the capital stock of the Quidnick Company of the State of Rhode Island, and established and doing business in the State of Rhode Island, and which said shares now stand in the name of the said William S. Hoyt on the books of said company.

To have and to hold the same, with all the rights and privileges, dividends, and profits thereof, to him, the said Charles G. Francklyn, his executors, administrators, and assigns, forever.

In testimony whereof I have hereunto set my hand and seal
359 this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

WILLIAM S. HOYT. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

Know all men by these presents that, for value received, I, William S. Hoyt, of the city of New York, do hereby make, constitute, and appoint, irrevocable, Edwin Hoyt my true and lawful attorney (with power of substitution), for me and in my name and stead, to sell, assign, and transfer unto any person or persons whatsoever one — twenty-three shares now standing in my name in the capital stock of the Quidnick Company.

And my said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness my hand and seal December 9th, 1873.

WILLIAM S. HOYT. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commisioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally appeared the within-named William S. Hoyt and acknowledged the foregoing instrument to be his voluntary act and deed, hand, and seal.

In witness whereof I have hereunto set my hand and affixed my official seal this ninth day of December, A. D. 1873.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner for Rhode Island in New York,
117 *Broadway, N. Y. City.*

PLAINTIFF'S EXHIBIT 1. Jan. 30, '77. J. H. G., U. S. C.

DR. *William S. Hoyt in Account with William Sprague, Guardian.* CR.

1866.				1866.			
Sep. 1	For paid C. R. Hill s ac., fees, &c., Oct. 23d, 1865			Sept. 1	By special fund per report of referee, July 15, 1865	$47,083 33	
"	" city tax for 1865, May 22, '66	$6 69			Less per report in settlement of Rice estate $2,464 78		
13	" U. S. probate court, Aug. 11, '66	508 14			Less proportional part of am't ch'g'd Mary Sprague, adm'x on same settlement 216 65		
	" Mary Sprague, balance due her for services as guardian	57 73				2,681 43	
Oct. 2	" income tax for 1865	145 00					$44,401 90
9	" probate charges	942 85			Dividend, A. & W. S. M'f'g Co.		6,585 00
10	" city tax for 1866	51 25		1867.			
31	" appraisers	501 49			" Quid'k Co.		1,230 00
1867.		25 00		July 1	" "		1,230 00
June 27	" income tax for 1866				" A. & W. S. M'f'g Co.		4,390 00
1868.		195 33		1868.			
May 26	" " 1867			Nov. 14	" Nat. B'k of Commerce, prior		884 50
1869.		43 79		1869.			
Jan. 25	Gave him ch'k No. 899 on Fourth Nat'l B'k., N. Y.			April 9	" " "		244 00
April 26	Gave him ch'k No. 967, Fourth Nat'l B'k., N. Y.	200 00		June 16	Coupons (U. S., N. Y., P. & B. R. R. Co.), collected		366 34
June 14	Paid income tax for 1868	500 00		July 1	Dividend Quid'k Co.		1,230 00
1870.		188 96		Sept. 8	Coupons (N. Y., P. & B. R. R. Co.), collected		57 00
June 10	Mailed him ch'k No. 59 on Fourth Nat'l B'k., N. Y.			Oct. 8	Div. Nat. B'k Commerce, prior		244 00
Oct. 31	Interest from Aug. 27, '67, av'ge date of Dr. side of ac. to date, 3 y'rs 2 mo's 4 days on $3,666.23, am't that side	300 00		9	" A. & W. S. M'f'g Co.		4,390 00
	Balance forward as follows:	699 02		30	Coupon U. S. collected		3 84
	Special fund $44,401 90			1870.			
	Over and above same 35,657 32			Feb. 7	" (N. Y., P. & B. R. R. Co.)		57 00
				April 7	Div. Nat. B'k Commerce, prior		244 00
				30	Coup. U. S. collected		3 43
				July 30	Coup. N. Y., P. & B. R. R. Co.		60 00
361		80,059 22					

		Oct. 7	Div. Nat. B'k Commerce, prior		244 00
		31	Coup. U. S. col'd		3 30
		"	Interest 5 y'rs 7 mo's to date on $44,401.90		
			Net am't of special fund		14,874 64
			Int. from Dec. 22d, '67, av'ge date of Cr. side of ac., exclusive of special fund to date, 2 y'rs 10 mo's 9 days, on $21,466.45		
			Am't that side		3,681 48
	$84,424 47				$84,424 47
			By balance forward, as follows:		
			Special fund	$44,401 90	
			Over and above same	35,657 32	
					$80,059 22
			Deduct omitted debit side:		
			May 25, 1868, draft	$800 00	
			Int. 103, Oct. 1, 1870	117 20	
					917 20
					$79,142 02

DR. *William S. Hoyt in Account with William Sprague, Guardian.* CR.

1870.				1870.			
Oct. 31	To ch'k, $653 on Fourth Nat. B'k, given him May 25, '68	$800 00		Oct. 31	Byb alance forward, as follows:		
	Int. 2 y'rs 159 days to date, @ 6%	117 20			Per ac. rend. this date:		
			$917 20		Special fund	$44,401 90	
					Over and above same	35,657 32	
							$80,059 22
1871.	Ch'k, $213 on Nat. Broadway B'k, N. Y.		3,500 00	1871.			
Sept. 20	do. $264 " "		5,000 00	Feb. 2	Proceeds, coupons, N.Y., P. & B. R. R. Co.		58 50
Oct. 16	Int. 68 days, on $9,417.20, and of above items			April 7	Dir. Nat. B'k Commerce, prior		244 00
31	from Aug. 24, '71, av'ge date of same, to date		106 72	May 1	Proceeds, cou., U. S. 6% bonds		3 33
				July 31	" " (N. Y., P. & B. R. R. Co.)		58 50
	Balance found as follows:			Oct. 10	Dir. Nat. B'k Commerce, prior		244 00
31	Special fund	$44,401 90		18	Check on ac.		2,500 00
	Over and above same	34,063 41		31	Int. 1 y'r to date on $80,059.22, am't old balance as above, $4,803.55		
			78,465 31		Int., 35 days to date on, $3,108.33		
					Amount of above credit item, exclusive of old balance from Sept. 26, '71		
					Av'ge date of same, $18.13		4,821 68
			$87,989 23				$87,989 23
				Oct. 31	By balance forward, as follows:		
					Special fund	$44,401 90	
					Over and above same	34,063 41	
							$78,465 31.

DR. *Wm. S. Hoyt, in Account with Wm. Sprague, Guardian.* CR.

1873.				1872.		
April 26	To cash on ac.		$2,500 00	Oct. 31	By balance bro't for'd as follows:	
Sept. 14	" "		2,500 00	"	Special fund $44,401 90	
Oct. 31	Balance forward as follows:			"	Over and above same 20,335 64	
	Special fund $44,401 90					$64,737 54
	Balance 19,503 28			Nov. 18	" proceeds of coupon, U. S. 6% bond, due Nov. 1, $3, prem. 40c.	3 40
			63,905 18	1873.		
				Feb'y 26	" proceeds of coupon, N. Y., Prov. & Bos. R. R. Co., bonds $30 ea.	60 00
				May 3	" proceeds of coupon, U. S. 6% bond, due May 1, $3, prem. 50c.	3 50
				5	" dividend of Nat'l Bank of Commerce, 4% on 122 shares	244 00
				Aug. 14	" proceeds of coupons of N. Y., Prov. & Bos. R. R. bonds, $30 ea.	60 00
				Oct. 31	" balance interest to date, @ 6%	3,796 74
			68,905 18			$68,905 18
				Oct. 31	By balance brought forward as follows:	
					Special fund $44,401 90	
					Balance 19,503 28	
						63,905 18

364 Pl'ff's Exhibit 4. Jan'y 30, '77. J. H. G., U. S. C.

Prov., *Nov.* 9, 1872.

W. S. Hoyt.

Dear Sir: Your note is before me on my arrival home; we are in advance to the concern of H. S. & Co. $\frac{3}{4}$ of a million dollars to enable them to carry their losses and to carry their private enterprises; we are trying hard to aid them to arrange their matters, so as to free us from their embarrassments. Every dollar we can spare goes to them, and we are put to it many times to keep them up. The balance to your credit here grew out of giving to you and your brother and sisters a sum of money equal to that which your grandfather and our family had for several years, I think, and in no case has any of the balance been drawn for other than the current money expenses. If you want any money for permanent purchases it must come from the sale of your stock, as in the case of Sarah and your grandmother.

After the present embarrassment is over, should you desire to have it so arranged, it can be done. I make this statement to you that you may know the real state of the case, but you will see the propriety of holding it to yourself. We have had coupled with this embarrassment the settlement of the debts of Byron Sprague and the forced holding of his property from sacrifice; other serious burdens have been put on us, growing out of the condition of the New York house.

Yours truly, W. SPRAGUE.

PLAINTIFF'S EXHIBIT No. 5. Jan. 30, 1877. J. H. G., U. S. C.

DR. *William S. Hoyt in Account with William Sprague, Guardian.* CR.

1871.				1871.			
Nov. 20	To ch'k 325 on Nat. Broadway B'k, N. Y.		$2,500 00	Oct. 31	By balance forward as follows:		
1872.					Special fund	$44.401 90	
Jan'y 1	" 394 " " "		2,500 00		Over and above same	34,063 41	
Feb'y 8	" 459 " " "		2,500 00				$78,465 31
Mar. 13	" 519 " " "		2,000 00	Nov. 4	" U. S. 6% bond		3 36
May 31	" 137 Merchants' Ex'ge Nat. B'k, N. Y.		1,500 00	1872.			
July 10	" 211 " " "		1,500 00	M'ch 7	" proceeds coupon, N. Y., Prov. & Bos. R. R. Co. bond		58 50
Aug. 24	" 276 " " "		2,500 00	April 9	" div. Nat. B'k of Commerce		244 00
Oct. 15	" 362 " " "		3,500 00	May 3	" proceeds coupon, U. S. 6% bond		3 37
31	To balance forward as follows:			Aug. 24	" 2 coupons N. Y., Prov. & Bos. R. R. Co. bonds		60 00
	Special fund	$44,401 90		Oct. 16	" div. Nat. B'k of Commerce		244 06
	Over and above same	20,335 00		31	" int. 1 year to date, @ 6% on $78,465.31, am't of old balance as above, say	$4,707 90	
			64,737 54		" 35 days' int. on $613.23 to date; am't of credit items, exclusive of old balance, from July 3d, 1872; av'ge date of same	12 26	
						$4,720 16	
					" less 182 days' int., @ 6% on $1,500; am't of debit items during the year, av'ge May 2d, 1872	561 16	
							4,159 00
			$83,237 54	1872.			$83,237 54
				Oct. 31	By balance forward as follows:		
					Special fund	$44,401 90	
					Over and above same	20,335 64	
							$64,737 54

AMASA SPRAGUE ET AL.

366 EXHIBIT A. Jan. 30, 1877. J. H. G., U. S. C.

NEW YORK, *Sep.* 17, 1869.

Mr. Greene, Providence.

DEAR SIR: I am sorry to give you any further trouble about the income tax, but this morning I went to the assessor's office and told him that I had received your letter, stating that the Providence tax had been paid there by the Governor, acting as guardian. He said, however, that he could not take it on conjecture, and that they must some receipt, signed by a Government official; so I shall be much obliged if you could send me a duplicate receipt or a line from the assessor to show at the office here.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT B. Jan. 30, 1877. J. H. G., U. S. C.

NEW YORK, *June* 11, 1870.

Messrs. A. & W. Sprague.

GENTLEMEN: I am in receipt of yours of 10th inst., enclosing check for three hundred dollars.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT C. Jan. 30, 1877. J. H. G., U. S. C.

NEW YORK, *Nov.* 9, 1870.

Mr. Greene.

DEAR SIR: The account current came duly to hand, for which I am much obliged, and find to be quite correct, except that you appear to have omitted a check for eight hundred dollars that I think
367 I drew in the spring of 1868. See if you do not find it somewhere charged against me; also please let me have a memorandum of the bank stock, shares, and whatever there may be, as I am not quite sure about the different amounts of each.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT D. Jan. 30, 1877. J. H. G., U. S. C.

MARCH 29, 1871.

Mr. Gallup.

DEAR SIR: I wrote to Cousin Amasa last week, asking him to send me twenty-five hundred dollars, but have heard nothing from him. I suppose he must have forgotten about it. Please drop me a line and let me know when I may expect it, as I am going away next Wednesday and have to make my arrangements accordingly. If not convenient now two or three weeks would do, if I can only know something about it.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT E. Jan. 30, 1877. J. H. G., U. S. C.

NEW YORK, *Oct.* 3, 1871.

Gov. Sprague.

DEAR SIR: I should like to draw five thousand [dollars] ($5,000) as soon as convenient to send it; and at the same time will you please tell them to send me a statement of my account current, and oblige—

Yours truly,

(Signed) W. S. HOYT.

368 EXHIBIT F. Jan. 30, 1877. J. H. G., U. S. C.

NEW YORK, *Oct.* 17, 1871.

Messrs. A. & W. Sprague Man'f'g Co.

GENTLEMEN: Your favor of 16th, enclosing check for $5,000 (five thousand dollars) is duly received.

I do not care for the account before the same time it was made up last year.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT G. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Nov.* 17, 1871.

Messrs. A. & W. Sprague.

GENTLEMEN: The statement of my account made up to Oct. 31 came duly to hand. Will you please send me a check for twenty-five hundred dollars as soon as convenient and charge the same to my account?

Yours truly,

(Signed) W. S. HOYT.

$2,500.

EXHIBIT H. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Nov.* 21, 1871.

Messrs. A. & W. Sprague, Providence.

GENTLEMEN: Your favor of 20th, enclosing check for $2,500 on Broadway Bank, is duly received.

Yours truly,

(Signed) W. S. HOYT.

369 EXHIBIT J. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Dec.* 30, '71.

Messrs. A. & W. Sprague.

GENTLEMEN: Will you please send me as soon as convenient a check for twenty-five hundred dollars, and charge the same to my account?

At the same time please tell me if there is anything in the matter of taxes that I should attend to here.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT K. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Jan.* 4, 1872.

Messrs. A. & W. Sprague.

GENTLEMEN: Your favor of Jan. 1st, including check for twenty-five hundred dollars, came duly to hand, but I omitted acknowledging it at the time.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT L. Jan. 30, '77. J. H. G., U. S. C.

A. & W. Sprague M'f'g Co.

GENTLEMEN: As soon as convenient will you please send me account current for the last year, and oblige—

Yours truly,

(Signed) W. S. HOYT.

New York, Jan. 9, '72.

370 EXHIBIT M. Jan. 30, '77. J. H. G., U. S. C.

OFFICE OF HOYT, SPRAGUE & CO.,
NEW YORK, *Feb.* 6, 1872.

Messrs. A. & W. Sprague, Providence.

GENTLEMEN: Please send me a check for twenty-five hundred dollars when convenient, and oblige—

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT N. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Feb.* 13, '72.

Messrs. A. & W. Sprague, Providence.

GENTLEMEN: Yours of Feb. 8, enclosing check for twenty-five hundred dollars, came duly to hand.

Yours truly,

(Signed) W. S. HOYT.

459 Nat'l B'dway.

EXHIBIT O. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Oct.* 13, 1871.

Governor Sprague.

DEAR SIR: Please do not forget to send me the check for five thousand dollars, as I want to use it at once. I will write to Mr. Greene for the statement of account, and he can send it to me at his leisure.

Yours truly,

(Signed) W. S. HOYT.

371 EXHIBIT P. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *March 12th*, 1872.

Messrs. A. & W. Sprague, Providence.

GENTLEMEN: Will you please send me a check for two thousand dollars, when convenient, and oblige—

Yours truly,

(Signed) W. S. HOYT.

$2,000.

EXHIBIT Q. Jan. 30, '77. J. H. G., U. S. C.

OFFICE OF HOYT, SPRAGUES & CO.,
NEW YORK, *March* 18, 1872.

Messrs. A. & W. Sprague.

GENTLEMEN: Yours of 13th inst., inclosing check for $2,000, came duly to hand.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT R. Jan. 30, '77. J. H. G., U. S. C.

MAY 30, 1872.

Messrs. A. & W. Sprague.

GENTLEMEN: Will you please send me a check for fifteen hundred dollars at your convenience, and charge the same to my account?

Yours truly,

(Signed) W. S. HOYT.

372 EXHIBIT S. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *June 3d*, '72.

Messrs. A. & W. Sprague.

GENTLEMEN: Your favor of 31st is received, enclosing check for $1,500.

Yours very truly,

(Signed) W. S. HOYT.

EXHIBIT T. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *July* 11, 1872.

Messrs. A. & W. Sprague.

GENTLEMEN: I am in receipt of yours of 10th inst., enclosing check for $1,500 on Merchants' Exchange National Bank.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT U. Jan. 31, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: Will you please send me a check for $1,500, and charge the same to my account?

Yours resp'y,

(Signed) W. S. HOYT.

New York, July 9, 1872.

EXHIBIT V. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: Will you please send me a check for $2,500, and charge the same in account?

Yours truly,

(Signed) W. S. HOYT.

New York, Aug. 3d, 1872.

373 EXHIBIT W. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. — W. Sprague, Providence.

GENTLEMEN: Will you please send me a check for 3,500 dollars, and charge the same to my account?

Very resp'y yours,

(Signed) W. S. HOYT.

New York, Sept. 30, 1872.

EXHIBIT X. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: I am in receipt of your favor of the 24th, enclosing check for twenty-five hundred dollars.

Yours truly,

W. S. HOYT.

New York, Aug. 26, 1872.

EXHIBIT Y. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W Sprague, Providence.

GENTLEMEN: About ten days since I wrote asking you to send me thirty-five hundred dollars, but I have received no reply.

If not convenient to send all at present, will you please send a portion, and oblige—

Yours, resp'y,

(Signed) W. S. HOYT.

New York, Oct. 10, 1872.

374 EXHIBIT Z. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: I have received no reply to my letter of the 10th. If not convenient to send the money at present, will you please write me a line to say when I may expect it, as I have need of the same, and would like to be able to make some calculations in regard to it?

Yours resp'y,

(Signed) W. S. HOYT.

New York, Oct. 15, 1872.

EXHIBIT AA. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: I am in receipt of your favor of the 15th inst., inclosing a check for thirty-five hundred dollars.

Very resp'y,

(Signed) W. S. HOYT,

New York, Oct. 16, 1872.

EXHIBIT BB. Jan. 30, '77. J. H. G., U. S. C.

Messrs. A. & W. Sprague.

GENTLEMEN: Will you please send me a check for three thousand dollars, and charge the same to my account?

Yours resp'y,

(Signed) W. S. HOYT.

New York, Nov. 4, 1872.

375 EXHIBIT CC. Jan. 30, '77. J. H. G., U. S. C.

OFFICE OF HOYT, SPRAGUE & CO.,
NEW YORK, ——, 1872.

Gov. Sprague.

DEAR SIR: I have written to the firm asking them to send me $3,000; the furnishing our house in town has made expenses larger for the time being, and made it necessary for me to draw more than I intended.

Yours resp'y,

(Signed) W. S. HOYT.

EXHIBIT DD. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *April* 28, 1876.

Messrs. A. & W. Sprague.

GENTLEMEN: I am in receipt of your favor of 26th, enclosing check for $2,500, for which accept my thanks.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT EE. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *July* 10, '73.

DEAR GOVERNOR: I ascertained through Mr. Gallup that I could dispose of my 122 shares in the Bank of Commerce to the Cranston Savings Bank, and that by so doing you could still control the stock, if wanted, for voting purposes. As it stands in your name as guardian will you please make the transfer for me?

I sell it because I want to reinvest the money in something else, and, as I understand, it will still be subject to your control.

376 Mr. Gallup has made all the arrangements of prices, &c., and it only has to be transferred.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT FF. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Aug.* 19, 1873.

Messrs. A. & W. Sprague M'f'g Co.

GENTLEMEN: I wrote last week asking you to send me twenty-five hundred dollars. I regret being obliged to draw when money is so scarce, but need it for living expenses. Please let me hear from you as soon as convenient.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT GG. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Sept.* 11, '73.

Messrs. A. & W. Sprague M'f'g Co.

GENTLEMEN: I am in rec't of your favor of 5th inst., enclosing check for twenty-five hundred dollars. It should have been acknowledged before, but only reached me, as I was out of town, and letters that were forwarded to me missed me and were returned today.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT HH. Jan. 30, '77. J. H. G., U. S. C.

PROVIDENCE, *Dec.* 1, 1873.

Hon. William Sprague.

DEAR SIR: I come here to get you to transfer to the respective owners the Quidnick and bank stock which you hold as guar-
377 dian for my sister, brother, and me, but as you are absent I leave with Mr. Greene the power appointing me attorney for my brother and sister, and enclose power appointing Mr. Greene attorney to make the necessary transfer, which please execute and send to him by return mail.

Yours truly,

(Signed) W. S. HOYT.

EXHIBIT KK. Jan. 30, '77. J. H. G., U. S. C.

OFFICE OF THE A. & W. SPRAGUE MANUFACTURING CO.,
PROVIDENCE, R. I., — 187–.

Rec'd Providence, July 11, 1873, from William Sprague, guardian, one hundred and twenty-two shares of stock in the National Bank of Commerce of Providence, heretofore standing on books of said bank in name of Wm. S. Hoyt, Wm. Sprague, guardian, now transferred, as per my request, to Cranston Savings Bank, to whom I have sold same.

(Signed) W. S. HOYT.

EXHIBIT LL. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *July* 15, 1873.

Messrs. A. & W. Sprague Manuf'g Co.

GENTS: I am in receipt of your favor of 12th inst., enclosing check for $6,740.50, being proceeds from sale of 122 shares of stock in the National Bank of Commerce.

The receipt which you send me I re-enclose with signature.

Yours truly, W. S. HOYT.

MEM.—(Stock receipt on file with certificate.)

378 EXHIBIT MM. Jan. 30, '77. J. H. G., U. S. C.

OFFICE OF A. & W. SPRAGUE MANUFACTURING CO.,
PROVIDENCE, R. I., *Dec.* 8, 1873.

Received of Wm. Sprague, guardian, the following-described property, viz:

One U. S. 6% bond, 29662	$100
One bond of the N. Y., Prov. & Bos. R. R. Co., 155	1,000
One do. do 156	1,000

One certificate of 123 shares of stock in Quidnick Company. Certificate 33.

(Signed) CHARLES G. FRANCKLYN,
For W. S. HOYT.

EXHIBIT NN. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *August* 25, '69.

Messrs. A. & W. Sprague, Providence.

GENTLEMEN: The assessors of internal revenue have sent to me several times to make my tax returns, and I have put it off up to the present time, not knowing how my account stood, or to what time the tax may have been already paid.

This morning, as a matter of favor, they gave me five or six more days' grace.

So, will you be kind enough to send me my account, that I may give them a statement understandingly?

Yours truly,

W. S. HOYT.

379 EXHIBIT OO. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Nov.* 3, '70.

Mr. Green:

DEAR SIR: Never having had any account current, will you please make it out at your convenience and enclose to me?

Yours truly,

(Signed) W. S. HOYT.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } ss:
City, County, and State of New York, }

Be it remembered that on the 31st day of January, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me, at No. 111 Broadway, in the city of New York, in the said southern district of New York, in the State aforesaid, Susan S. Francklyn, to testify and the truth to say, on the part and behalf of the complainants, in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the district of Rhode Island, wherein William S. Hoyt is complainant, and Amasa Sprague and others are respondents, and in a certain other suit now pending and undetermined in said court wherein Charles G. Francklyn and another are complainants, and the said Amasa Sprague and others are respondents.

And the said Susan S. Francklyn being about the age of thirty-one years, and having been by me first cautioned and sworn to
380 testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said Susan S. Francklyn, and she did thereupon depose, testify, and say as follows, viz:

By Mr. BUTLER:

Q. You are one of the plaintiffs in the suit of yourself and husband against Mrs. Mary Sprague and others?

A. I am.

Q. And you are a sister of Mr. William S. Hoyt, who is also plaintiff in a like suit?

A. Yes, sir.

Q. You are daughter of the late Edwin Hoyt, of this city?

A. Yes, sir.

Q. And of Susan Sprague, his wife?

A. Yes, sir.'

Q. Please state whether you were born in this city.

A. Yes, I was.

Q. And whether you have been a resident of this city or its vicinity all your life.

A. Yes, sir.

Q. Please state when you became of age, and also the date of your marriage to Mr. Francklyn.

A. I became of age in October, 1866, and I was married in the fall of 1869 to Mr. Charles G. Francklyn.

Q. Up to the time of your marriage did you live with your father at No. 94 Fifth avenue, in this city?

A. Yes, sir.

Q. Please give the date of your mother's death.

A. It was in October, either 1852 or 1853; I am not quite sure.
Q. She died in this city?
A. At Astoria, Long Island.
Q. Do you recollect the fact of the death of your grandfather, William Sprague?
381 A. Yes, sir; perfectly, and I attended his funeral at Providence; that was in the year 1856, I think.
Q. At the time of your grandfather's death you were about 11 years of age?
A. Just 11; I think he died on my birthday.
Q. From the time of your grandfather's death, please state whether you had any knowledge or information in regard to your interest, if any, in his estate.
A. I had none.
Q. Did you at any time make any enquiry of your father in reference to your property or interest in your grandfather's estate?
A. Yes, sir; I did, several times.
Q. Please state when you made those enquiries, and where, as near as you can recollect.
A. After I ceased to be a child I asked him several times, on different occasions.
Q. What was the substance of his answers to your enquiries?
A. He always turned me off, or made a joke of it, or if he could not get over it in any other way he used to leave the room; I never got a reply.
Q. Do you state this as occurring several times?
A. Several times.
Q. Please state, as near as you can, how often such enquiries were made by you.
A. Perhaps half a dozen times.
Q. Before or after your marriage?
A. Before.
Q. Did you know that Mrs. Mary Sprague, your maternal grandmother, was your guardian in the State of Rhode Island; if so, when did you first learn that fact?
A. I cannot tell when I first knew it, but I have an impres-
382 sion.
Q. Did you ever receive any information from her with regard to your interest in your grandfather's estate of any kind?
A. Never.
Q. Did you ever learn from her the fact that she was your guardian?
A. Never.
Q. Do you recollect in what manner you first learned that fact?
A. No.
Q. State whether or not you are quite sure you did not learn it from her, or any information received from her?
A. Quite sure.
Q. State whether or not you ever heard or knew, prior to the failure of the A. & W. Sprague Manufacturing Co., that Mrs. Mary

Sprague had never accounted as the administratrix of the estate of your grandfather.

A. I do not think I knew anything about it.

Q. Did you ever receive any notice or communication in reference to the appointment of William Sprague as your guardian in place of Mrs. Mary Sprague?

A. None at all.

Q. Did you ever have any information in regard to any of the steps or proceedings by which William Sprague was appointed your guardian in the State of Rhode Island?

A. No; none.

Q. Did you ever have any interview or conversation with either Mrs. Mary Sprague or William Sprague on the subject of their respective guardianship of your property, or in reference to the property itself?

A. None.

Q. Did you ever receive any accounts from Mrs. Mary Sprague as guardian?

A. None.

383 Q. Did you ever receive any accounts from William Sprague as guardian?

A. Before my marriage?

Q. At any time.

A. Not before my marriage.

Q. You have already given the date of your marriage?

A. Yes, sir.

Q. Please state how soon after that you first received any account from William Sprague as guardian.

A. I received one in October, 1870, and one in the following March, through Mr. Green always.

Q. Mr Green I understand to have been the book-keeper or treasurer of the A. & W. Sprague Manufacturing Co.?

A. He was.

Above accounts produced (being seven in number) marked for identification S. S. F., January 31st, 1877, Exhibits A, B, C, D, E, F, & G.; J. H. G., U. S. C.

Q. Please look at the seven papers now produced, and say if they are the accounts you received from William Sprague, guardian?

A. I cannot say that they are all; (after looking) yes, sir; I think they are all the accounts I received.

Q. Can you state, or do you know, how it was that accounts were furnished to you after your marriage and not before?

A. Because Mr. Francklyn asked for them.

Q. Was any information furnished you, or had you any knowledge at any time during the period covered by those accounts in reference to the manner in which your interest in the property of your grandfather had been treated by Mrs. Sprague or William Sprague as your guardian?

A. No; none whatever.

Q. Had you any knowledge or information as to the manner in

which the property of the firm of A. & W. Sprague had been
384 turned over or conveyed to the A. & W. Sprague Manufacturing Co?

A. None.

Q. When did you first receive or acquire any information on that subject; was it before or after the failure of the A. & W. Sprague Manufacturing Co.?

A. After.

Q. Please state whether or not such information was derived in connection with the legal proceedings instituted by your brother and husband, and on your behalf, against the company.

A. Yes, sir.

Q. Please state whether or not, in the absence of that information, you assumed and supposed that everything that had been done in the State of Rhode Island by or on behalf of your guardians had been legally and formally done.

A. I took it for granted that it had.

Q. Please state whether or not, so taking it for granted, you did not make any inquiry or investigation on that subject until you received the information to which you refer.

A. Yes, sir; that is so.

Q. Do you know, except from the information ascertained since the failure of the A. & W. Sprague Manufacturing Co., or had you known at any time previous, what was the actual position or condition of your interest in your grandfather's estate, or in the property held and managed by A. & W. Sprague?

A. No.

Cross-examination:

Q. Please look at the various papers now shown you, and state whether the same bear your genuine signature. (Papers shown witness.)

A. I have examined the several papers shown me, and they are all either in my handwriting or bear my signature.

385 Defendant puts the above papers, identified, in evidence, and marked Defendant's Exhibits Nos. 1 to 23, inclusive—Mrs. Francklyn's Correspondence.

Q. Please look at the paper now shown you, and state whether you received the items of property therein mentioned, for which it appears on the face of the paper that your husband, Charles G. Francklyn, receipted.

A. Yes, sir.

Above papers offered in evidence, and marked Mrs. Francklyn's receipt for stocks, and is hereto annexed, marked Ex. 24, Jan'y 31, 1877, J. H. G., U. S. C.

Q. Do you remember receiving, from time to time, letters from Mr. Charles Green, and please refer to supposed copies of such letters, dated respectively October 12, 1869, March 11, 1870, and October 11, 1869, now shown you, and state whether, to the best of your re-

membrance and belief, you received letters of which the papers shown you are copies? And if you have the originals, please produce them.

A. I believe I have the originals of the papers of which these purport to be copies.

Q. State whether the papers now shown you are powers of attorney executed by you for the transfer of shares standing in your name in the Quidnick Company?

A. They are.

(The power of attorney is dated 9th December, 1873.)

Above paper produced and marked Mrs. Francklyn's power of attorney, and is hereto first annexed.

Q. State whether you have not received, prior to the failure of the A. & W. Sprague Manufacturing Co., and after you became of age, notices from time to time of general and special meetings of the A. & W. Sprague Manufacturing Co. and the Quidnick Co.

A. Not before my marriage, that I remember.

Q. State whether after your marriage.

A. After my marriage; yes.

386 Redirect:

Q The receipt for bonds and certificates of shares of stock, signed by your husband, and produced in evidence on the part of the defendants, is dated December 8th, 1873, and the power of attorney to transfer stock of the Quidnick Co. is dated on the same day; please state whether that was before or after you ascertained the facts alleged in your bill of complaint in reference to the state of the accounts and the acts of the defendants, William and Amasa Sprague and others, which are therein alleged?

A. I did not know; I had not a very accurrate knowledge of anything then.

Q. Do you recollect about when it was that the A. & W. Sprague Manufacturing Co. failed?

A. In November, 1873.

Q. Then you now say that these papers were signed before you ascertained the facts referred to in the interrogatory just put?

A. Yes, sir.

Q. Do you remember the fact that for some time—for several months after the failure of the A. & W. Sprague Manufacturing Co. —your husband and your attorney were engaged in making investigations into the facts which are set forth in the bill of complaint?

A. Yes, sir.

Q. In reference to the receipts for money and letters which have been produced and shown to you, I ask you whether during all the time covered by the dates of these papers you had any knowledge of the state of the accounts of the A. & W. Sprague Manufacturing Co.?

A. I had no knowledge whatever.

Q. Had you any knowledge in reference to the account which

had been had between A. & W. Sprague or the partners
387 of that firm, or your grandmother, as guardian, or in reference to your interest in the estate of your grandfather?

A. No.

Re-cross:

Q. Do you not remember that the state of feeling on the part of your grandmother toward William Sprague was very bitter after 1862, when her son Byron left the firm, and continued up to 1865?

A. I do not know anything about it whatever.

Q. Was not your grandmother in the habit of visiting your father's house?

A. Yes, sir.

Q. And were you not also in the habit of visiting your grandmother's?

A. Yes, sir.

Q. Did you not, after 1862—that being the year when Byron Sprague sold out his interest in the firm of A. & W. Sprague—often hear your grandmother express herself bitterly towards William Sprague?

A. I heard her say good things and bad things about everybody; she was a woman governed by impulse very much.

Answer objected to as not responsive to the question.

Q. Please state particularly whether you have not within the period enquired of heard your grandmother express herself bitterly against William Sprague?

A. Yes, sir; I have, of course.

The counsel here stipulate that copies of such papers as have been introduced in evidence in connection with the foregoing deposition may be annexed hereto, with the same force and effect as if the originals had been annexed.

It is stipulated that the testimony of this witness and the
388 other witnesses to be examined on behalf of the complainant be taken down and written out by the stenographer with like effect as if written down by the commissioner in person, and is to be read over to the witnesses and signed by them respectively, and authenticated by the commissioner, and transmitted to the clerk in accordance with the equity rules, and that said testimony shall be used in both the above-entitled actions, and in any proceedings therein, with like effect as if separately taken in each of said actions.

SUSAN S. FRANCKLYN.

Subscribed and sworn to this 9th day of February, 1877.

[SEAL.] JAMES H. GILBERT,
U. S. Com'r, Southern District of N. Y.

No. 31. Capital, $500,000. 122 shares.

The Quidnick Company, Providence, Rhode Island.

Incorporated 1862. 5,000 shares, 100 each.

This is to certify that susan S. Francklyn, of New York, is the owner at the date hereof, of one hundred and twenty-two [SEAL.] shares of the capital stock of the Quidnick Company, which are transferable only upon the books of said company, at their office in Providence, R. I.

Providence, R. I., December 8, 1873.

WM. SPRAGUE, *President.*
THOS. WHITMAN, *Secretary.*

CHAS. G. FRANCKLYN. [SEAL.]
SUSAN S. FRANCKLYN. [SEAL.]

Sealed, signed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. JACKSON.

389 STATE of NEW YORK, } *ss:*
City and County of New York, }

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take the acknowledgment of deeds, &c., personally appeared the within-named Charles G. Francklyn and Susan S. Francklyn and acknowledged the foregoing instrument to be their voluntary act and deed, hands and seals.

And afterwards, on the same day, came Susan S. Francklyn, and being by me examined privily and apart from her said husband, when the foregoing instrument, by her subscribed, was shown and explained to her by me, when she declared to me that the same was her free, voluntary act and deed, hand and seal, and that she did not wish to retract the same.

In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

CHARLES EDGAR MILLS, [SEAL.]
Commissioner for Rhode Island in New York,
117 *Broadway, N. Y. City.*

Know all men by these presents that we, Charles G. Francklyn and Susan S., wife of the said Charles G. Francklyn, both of the city of New York, for and in consideration of the sum of thirty thousand five hundred dollars to us paid by George C. Allen, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, assign, transfer, and set over to him, the said George C. Allen, one hundred and twenty-two shares in the capital stock of the Quidnick Company, legally incorporated by the Legislature of the State of Rhode Island, and established and doing business in the State of Rhode Island, and which said shares now stand in the name of Susan S. Francklyn on the books of said company:

To have and to hold the same, with all the rights and privileges, dividends and profits thereof, to him, the said George C. Allen, his executors, administrators, and assigns, forever.

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In testimony whereof we have hereunto set our hands and seals this ninth day of December, in the year of our Lord one thousand eight hundred and seventy-three.

Know all men by these presents that, for value received, we, Charles G. Francklyn and Susan S., his wife, of the city of New York, do hereby make, constitute, and appoint, irrevocably, Edwin Hoyt — true and lawful attorney (with power of substitution) for us, and in our name and stead to sell, assign, and transfer unto any person or persons whatsoever one hundred and twenty-two shares now standing in the name of Susan S. Francklyn in the capital stock of the Quidnick Company.

And our said attorney is hereby fully empowered to make and pass all necessary acts for the said assignment and transfer.

Witness our hands and seals 9th December, 1873.

CHAS. G. FRANCKLYN. [SEAL.]
SUSAN S. FRANCKLYN. [SEAL.]

Signed, sealed, and delivered in presence of—
CHARLES EDGAR MILLS.
WILLIAM H. CLARKSON.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 9th day of December, A. D. 1873, before me, Charles Edgar Mills, a commissioner of the State of Rhode Island to take acknowledgment of deeds, &c., personally appeared the within-named Charles G. Francklyn and Susan S. Francklyn and acknowledged the foregoing instrument to be their voluntary act and deed, hands and seals.

And afterwards, on the same day, came Susan S. Francklyn, and being by me examined privily and apart from her said husband, when the foregoing instrument, by her subscribed, was shown and explained to her by me, when she declared to me that the same was her free, voluntary act and deed, hand and seal, and that she did not wish to retract the same.

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In witness whereof I have hereunto set my hand and affixed my official seal this 9th day of December, A. D. 1873.

CHARLES EDGAR MILLS, [SEAL.]
Commissioner for Rhode Island in New York,
117 *Broadway, N. Y. City.*

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1866.				1866.			
Sept. 1	For paid C. R. Hill's acc., fees, &c., October 23d, '65	$6 69		Sept. 1	By special fund, per report of referee, July 15, '65	$47,083 33	
"	" city tax for 1865, May 22d, '66	508 13			Less per report in settlement of Rice estate $2,464 78		
"	" U. S. probate court, August 11th, '66	57 73			Less proportional part of amount charg'd Mary Sprague, administrator on same settlement 216 65		
13	" Mary Sprague, balance due her for services as guardian	383 85				2,681 43	
Oct. 2	" income tax for 1865	942 85					$44,401 90
9	" probate charges	51 25		"	Dividend A. & W. S. M'f'g Co.		6,600 00
10	" city tax for 1866	501 49		"	" Quid'k Co.		1,220 00
31	" appraisers	25 00		1867.			
1867.				July 1	" "		1,220 90
Mar. 8	" draft on acc. dividend	2,000 00		"	" A. & W. S. M'f'g Co.		4,400 00
June 27	" income tax for 1866	195 34		1868.			
Sept. 20	" draft	5,603 34		Nov. 14	" National Bank of Commerce		884 50
Oct. 31	" draft at sight	2,500 00		1869.			
Nov. 23	" " "	1,500 00		April 9	" " " "		244 00
1868.				June 16	Coupons collected		485 14
April 10	" check 616 on Fourth National Bank, New York	2,500 00		July 1	"		47 95
May 26	" income tax for 1867	43 78		"	Dividend Quid'k Co.		1,220 00
Oct. 20	" E. Hoyt, on her acc., check $784, on Fourth National	3,000 00		Sept. 8	Coupons collected		28 50
Dec. 7	" city tax, assessed November 14th, 1868	72 00		30	Interest on $44,401.90, net amount of special fund to date, 4 y'rs 6 mo's		11,988 51
24	" check 866 on Fourth National Bank, New York	1,500 00					
1869.							
Mar. 22	" check $943 on Fourth National Bank, New York	1,500 00					

June	8	" check, 1013, on Fourth National Bank, New York	1,500 00					
	14	" income tax for 1868	188 97					
July	14	" E. Hoyt, check $1,060 on Fourth National Bank	2,000 00					
Oct.	1	Balance forward, as follows:	$26,580 42					
		Special fund $44,401 90						
		Over and above same 1,758 18						
			46,160 08					
			$72,740 00					$72,740 50
				Oct.	1	By balance, found as follows:		
						Special fund	$44,401 90	
						Over and above same	1,758 18	
								$46,160 08

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1869.				1869.			
Oct. 9	For balance forward, as follows:			Oct. 1	By balance, as follows:		
	Special fund	$44,401 90			Special fund	$44,401 90	
	Over and above same	6,402 18			Over and above same	1,758 18	
			$50,804 08				$46,160 08
				8	Dividend 4% on 122 shares Nat. B'k Commerce, Prov.		244 00
				9	Dividend $10 per share on 440 shares A. S. M'f'g Co. for operations of year ending Mc'h 31, '69, due us. Cash this day		4,400 00
			$50,804 08				$50.804 08
				Oct. 9	By balance forward, as follows:		
					Special fund	$44,401 90	
					Over and above same	6,402 18	
							$50,804 08

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1869.				1869.			
Oct. 27	For paid draft for		$5,000 00	Oct. 14	By balance rendered, as follows:		
Dec. 9	Do. city tax assessed Oct. 15, 1869		73 20		Special fund	$44,401 90	
1870.					Over and above same	6,402 18	
March 1	Balance forward, as follows:						$50,804 08
	Special fund	$44,401 90		30	Coupons collected, U. S. 6%		3 85
	Over and above same	1,401 23		Dec. 31	Do. Q. M. Co.		39 90
			45,803 13	1870.			
				Feb. 7	Do. N. Y., P. & B. R. R. Co.		28 50
			$50,876 33				$50,876 33
				March 1	By balance forward, as follows:		
					Special fund	$44,401 90	
					Over and above same	1,401 23	
							$45,803 13

Securities:

122 shares Nat'l Bank of Commerce, Prov., par $50
U. S. 6% bonds, No. 2,966,162, par 100
N. Y., Prov. & Boston R. R. bonds, 154, 1878, par 1,000
Quicksilver Mining Co. bonds, 156, 1879, par 1,000
440 shares A. & W. S. M'f'g Co., par 100
122 do. Quidnick Co., par 100

396 EXHIBIT D. Jan. 31, 1877. J. H. G., U. S. C.

DR. *Susan S. Hoyt in Acct. with William Sprague, Guardian.* CR.

1870.					
March 23	To payment of S. S. Francklyn's draft on A. & W. S. M'f'g Co., to balance acct. up to March, 1870, per acct. rendered March 11, 1870		$1,401 23	March 1	By balance forward, as follows: Per acct. rendered March 11, 1870. Special fund $44,401 90 Over and above same 1,401 23	$45,803 13
October 7	To balance forward, as follows: Special fund $44,401 90 Over and above same 3,224 49		47,626 39	April 7	By dividend 4% Nat. Bank of Commerce, Providence	244 00
				30	By proceeds coupon of U. S. bonds	3 44
				June 30	" " " Quicksilver Mining Co.	38 94
				July 30	By proceeds coupon N. Y., P. & B. R. R. Co.	30 00
				Sept. 30	" interest 1 year to date on special fund	2,664 11
				October 7	" dividend 4% Nat. Bank of Commerce, Providence	244 00
			$49,027 62			$49,027 62
				October 7	By balance forward, as follows: Special fund $44,401 90 Over and above same 3,224 49	$7,626 349

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1870.				1870.		
Nov. 11	To payment of S. S. Francklyn's draft Nov. 7 on A. & W. S. M'f'g Co., to balance acc. up to Oct. 7, 1870, per account rendered that date		$3,224 49	Oct. 7	By balance forward, as follows, per acc't rendered this date:	
					Special fund $44,401 90	
					Over and above same 3,224 49	
						$47,626 39
Dec. 1	Paid city of Providence tax		81 00	31	Proceeds coupon U. S. bond	3 33
				Dec. 31	Do. do. Quicksilver Mining Co.	38 67
1871.						
April 13	Payment of her draft April 11, 1871, on A. & W. S. M'f'g Co.		2,000 00	1871.		
				Feb'y 2	Do. do. N. Y., P. & B. R. R. Co.	29 25
				April 7	Dividend 4% Nat. B'k of Commerce, Prov.	244 00
				May 1	Proceeds coupon U. S. bond	3 33
				July 1	Do. do. Quicksilver Mining Co.	39 46
				31	Do. do. N. Y., P. & B. R. R. Co.	29 25
				Sept. 30	Interest 1 year to date on special fund	2,664 11
			$50,677 79			$50,677 79
Oct. 2	Balance forward, as follows:			Oct. 2	By balance forward, as follows:	
	Special fund	$44,401 90			Special fund $44,401 90	
	Over and above same	970 40			Over and above same 970 40	
			45,372 30			$45,372 30

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1871.				1871.			
Oct. 12	To cash paid sight drafts of Susan S. Franck-lyn on A. & W. Sprague Manufacturing Co., Oct. 11, 1872		$1,214 44	Oct. 2	By balance forward, as follows, per act rendered this date, thus:		
Dec. 5	To cash paid city of Prov., tax assessed Oct. 20, 1871, on $6,000, personal, at $1.35		81 00		Special fund	$44,401 90	
1872.					Over and above same	970 40	
April 15	To cash paid sight draft of Susan S. Franck-lyn on A. & W. Sprague Manufacturing Co., April 13, 1872		1,500 00				$45,372 30
Oct. 1	Balance forward, as follows:			10	" dividend, 4% Nat. Bank of Commerce		244 00
	Special fund	$44,401 90		Nov. 4	" proceeds coupon U. S. bond		3 36
	Over and above same	1,470 84		1872.			
			45,872 74	Jan. 6	" proceeds coupon Quicksilver Mining Co.		38 15
				Mar. 7	" proceeds coupon N. Y., Prov. & Boston R. R. Co.		29 25
				Ap'l 9	" proceeds dividend 4% Nat. B'k of Commerce		244 00
				May 3	" proceeds coupon U. S. bond		3 97
				Aug. 24	" proceeds coupon Quicksilver Mining Co.	39 60	
					" proceeds coupon N. Y., Prov. & Boston R. R. Co.	30 00	
							69 60
				Sept. 30	" proceeds interest one year to date on special fund		2,664 11
			$48,668 14				$48,668 14
				Oct. 1	" balance forw'd, as follows:		
					Special fund	$44,401 90	
					Over and above same	1,470 84	
							$45,872 74

DR. *Susan S. Hoyt in Account with William Sprague, Guardian.* CR.

1872.				1872.			
Nov. 19	To paid sight draft of S. S. Francklyn, Nov. 18, 1872		$1,714 84	Oct. 1	Balance forward, per acc't ren'd this date, thus:		
Dec. 3	To paid city of Prov. taxes for 1873, on $6,000, @ $1.35		81 00		Special fund	$44,401 90	
1873.					Balance over and above same	1,470 84	
April 2	To cash on account		1,500 00				$45,872 74
Oct. 31	To balance forw'd to new acc't, as follows:			" 16	Dividend Nat. Bank of Commerce, 4% on 122 shares		244 00
	Special fund	$44,401 90		Nov. 18	Dividend proceeds of coupon of U. S. 6% bond, $3 prem., 13½%		3 40
	Over and above same	1,939 73		1873.			
			46,341 63	Jan. 9	Dividend proceeds of coupon of Quicksilver Mining Co. bond, due January 1, 1873, 35 gold pr'm, 12½%, 4. 29		39 29
				Feb. 26	Dividend proceeds coupon N. Y., Prov. & Boston R. R. Co. bond, due May 1, 1873		30 00
				May 3	Dividend proceeds of coupon of U. S. 6% bond, due May 1, 1873		3 50
				" 5	Dividend Nat. Bank of Commerce, 4% on 122 shares		244 00
				July 11	Dividend proceeds of coupon of Quicksilver Mining Co. bond, due July 1, 1873, 35 gold prem., 15%, $5.42		40 42
				Aug. 14	Dividend coupon of N. Y., Prov. & Boston R. R. Co. bond, due August 1, 1873		30 00
				Oct. 15	Dividend Nat. Bank of Commerce, 4% on 122 shares		244 00
				" 31	Interest, 1 year and 1 month, to date, on special fund of $44,401.90, @ 6%		2,886 12
			$49,637 47				$49,637 47
				Oct. 31	By balance brought forw'd, as follows:		
					Special fund	$44,401 90	
					Over and above same	1,939 73	
							$46,341 63

400 EXHIBIT 1. Jan. 31, '77. J. H. G., U. S. C.

$2,000. NEW YORK, *Jan'y 17th*, 1867.

A. & W. Sprague Manuf'g Co.:

Pay to the order of Edwin Hoyt two thousand dollars on account of my dividend.

(Signed) SUSAN S. HOYT.

[Stamp.]

(Endorsed as follows:) "Susan S. Hoyt. Draft. Paid Jan. 17, '67." "Pay to the order of A. & W. Sprague Man'f'g Co. Edwin Hoyt." "Paid March 8, 1867." "A. & W. Sprague M'f'g Co., per Amasa Sprague, treas."

EXHIBIT 2. Jan. 31, '77. J. H. G., U. S. C.

$5,603.34. NEW YORK, *April 2d*, 1867.

A. & W. Sprague M'fg Co.:

Pay to the order of Edwin Hoyt five thousand six hundred and three $\frac{34}{100}$ dollars on account of dividend.

(Signed) SUSAN S. HOYT.

[Stamp.]

(Endorsed as follows:) "Pay to the order of A. & W. Sprague Man'f'g Co. Edwin Hoyt." "Susan S. Hoyt. Draft. Paid September 20, 1867."

(Written across the face:) Paid Sept. 25, '67. Greene.

EXHIBIT 3. Jan. 31, '77. J. H. G., U. S. C.

$1,500. NEW YORK, *Nov.* 22, 1867.

A. & W. Sprague Manuf'g Co.:

Pay to the order of Edwin Hoyt fifteen hundred dollars and charge to my account.

(Signed) SUSAN S. HOYT.

[Stamp.]

401 (Endorsed as follows:) "Susan S. Hoyt. Draft. Paid Nov. 23, '67." "Pay to the order of A. & W. Sprague Man'f'g Co. Edwin Hoyt."

(Writeen across the face:) Paid Nov. 23, 1867. A. & W. S. M'f'g Co. G.

EXHIBIT 4. Jan. 31, '77. J. H. G., U. S. C.

No. 943. PROVIDENCE, R. I., *March 22d*, 1864.

[Stamp A. & W. M'f'g Co.]

Fourth National Bank:

Pay to the order of Susan S. Hoyt, of the city of New York, fifteen hundred dollars.

(Signed) A. & W. SPRAGUE M'F'G CO.

$1,500.

Endorsed as follows: "Susan S. Hoyt. For deposit. Edwin Hoyt."

EXHIBIT 5. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *June* 5, 1869.

Messrs. A. & W. Sprague:

Pay to the order of Sarah H. Lee fifteen hundred dollars, and charge to my account.

(Signed) SUSAN S. HOYT.

Endorsed: "Susan S Hoyt. Receipt. June 5, 1869."

402 EXHIBIT 6. Jan. 31, '77. J. H. G., U. S. C.

Mr. Green:

Will you please send a check to my father for me of two thousand dollars, payable to his or my order?

(Signed) SUSAN S. HOYT.

July 13, '69.

Draw check as above, order Susan S. Hoyt; ch'g acc't.

WM. SPRAGUE, *G'd'n.*

EXHIBIT 7. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *October* 5, 1869.

Will Mr. Green be kind enough to send Mrs. Francklyn her account in the same form as that made out for Mrs. Lee and addressed to the care of—

C. G. FRANCKLYN,
4 *Bowling Green, New York.*

EXHIBIT 8. Jan. 31, '77. J. H. G., U. S. C.

OFFICE OF THE SPRAGUE MANUFACTURING CO.,
PROVIDENCE, R. I., *Oct.* 11, '69.

Mrs. C. G. Francklyn, New York.

MADAM: As per your request of 5th inst. I take pleasure in sending you herewith statement of your account to Oct. 1, '69, all of which I trust you will find to be correct and satisfactory.

Yours respect'y,

(Signed) WM. SPRAGUE, *G'd'n.*
Per GREENE.

403 EXHIBIT 9. Jan. 31, '77. J. H. G., U. S. C.

OFFICE OF THE A. & W. SPRAGUE MANUFACTURING CO.,
PROVIDENCE, R. I., *Oct.* 12, 1869.

Mrs. C. G. Francklyn, care ——, 4 Bowling Green, New York.

DEAR MADAM: At request of Mrs. Mary Sprague I write to advise that the last Bank of Commerce dividends on stock owned by yourself were coll. (same as heretofore) by William Sprague as guardian, and have been duly placed to your credit in account.

To show more fully the present condition of account I send herewith "mem's" from Oct. 1 to date, including dividend referred to,

as also dividend of A. & W. S. M'f'g Co., $10 per share, declared 9th inst.

Respectfully yours,
(Signed) CHARLES GREENE.

404 EXHIBIT 10. Jan. 10, '77. J. H. G., U. S. C.

[Int. Rev. Stamp, 2 cents.]

$5,000. NEW YORK, *Oct.* 25, 1869.

Please pay to the order Chas. G. Francklyn five thousand dollars and charge the same to my account.
(Signed) SUSAN S. FRANCKLYN.

(Written across the face twice:) "Northern Bank, paid, Providence, R. I."

To Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.
E. S., Oct. 27, '69.

Endorsed as follows: "Charles G. Francklyn, pay Shawmut National Bank, credit National Bank of the State of New York." "Pay S. Fenner, Esq., cash., or order, Shawmut National Bank. S. G. Davies."

EXHIBIT 11. Jan. 31, '77. J. H. G., U. S. C.

Mr. Green.

DEAR SIR: When Mr. Sprague was here some months ago he promised to send me a list of the stocks and bonds which belong to me. As it has probably escaped his memory I wish you would be good enough to send me such a list, at the same time giving the market value. In a day or two I shall draw for the balance due me, as by last account rendered me, in November, some $1,600, I believe.

Yours, truly,
(Signed) S. S. FRANCKLYN.
New York, March 9, 1870.

405 EXHIBIT 12. Jan. 31, '77. J. H. G., U. S. C.

$1,401.23 NEW YORK, *March* 19, 1870.

Please pay to C. G. Francklyn or order one thousand four hundred and one $\frac{23}{100}$ dollars, and charge the same to my account.
(Signed) SUSAN S. FRANCKLYN.

Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

[Written across the face]: Paid at the R. I. Providence Bank.

Endorsed as follows: "For deposit in Nat'l Bank of State of New York for credit of Chas. G. Francklyn." "Pay B. W. Ham, cash., credit the Nat'l Bank of the State of New York."

EXHIBIT 13. Jan'y 31, '77. J. H. G., U. S. C.

OFFICE OF THE
A. & W. SPRAGUE MANUFACTURING COMPANY,
PROVIDENCE, R. I., *March* 11, 1870.

Mrs. S. S. Francklyn, care of ——, 4 Bowling Green, New York:

MADAM: In reply to your favor of 9th inst., received this a. m., please find inclosed statement of ac. to March 1, 1870, showing bal. due you (apart from special fund) of $1,401.23; also a list of stock and securities. The value of the bonds can be ascertained by
406 daily quotations at the stock exchange. The Bank of Commerce sells at about $51. There is no quotable market value to either the A. & W. S. M'f'g Co. or the Qu'd'k Co. stocks.

Respectfully yours, CHAS. GREENE.

[U. S. Int. Rev. stamp, 2 cts.]

EXHIBIT 14. Jan'y 31, '77. J. H. G., U. S. C.

NEW YORK, *Nov.* 7, 1870.

$3,224.49

Please pay to C. G. Francklyn, or order, three thousand two hundred and twenty-four $\frac{49}{100}$ dollars, and charge the same to my account.

(Signed) SUSAN S. FRANCKLYN.

Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

E. S., Nov. 11, '70.

(Written across the face:) Paid at the R. I. Providence Bank.

Endorsed as follows: "For deposit in National Bank, State of New York. Chas. G. Francklyn." "Pay B. W. Ham, Esq., cash., order, credit the National Bank of the State of New York." "Susan S. Francklyn. Draft. Nov. 7, 1870. Paid Nov. 11, '70."

EXHIBIT 15. Jan'y 31, '77. J. H. G., U. S. C.

Mr. Green.

DEAR SIR: I have drawn a draft on you for $2,000, which please pay when presented, as I am going to England for
407 some time. Please advise me, care of D. & C. McIver, Liverpool, if any dividends should be declared this summer.

Yours,

(Signed) S. S. FRANCKLYN.

N. Y., April 11, 1871.

Address Mrs. C. G. Francklyn, care of D. & C. McIver, Liverpool.

EXHIBIT 16. Jan. 31, '77. J. H. G., U. S. C.

[Stamp.]

$2,000. NEW YORK, *April* 11, 1871.

Please pay to the order of cashier National Bank of State of New York two thousand dollars, and charge the same to my account.

(Signed) SUSAN S. FRANCKLYN.

Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

[Stamp of Providence Bank.]

Endorsed as follows: "Pay order B. W. Ham, Esq., cashier, credit the Nat'l Bank State of New York. J. B. Rickett, for cashier.

EXHIBIT 17. Jan. 31, '77. J. H. G., U. S. C.

$1,214.40. NEW YORK, *Oct.* 11, '71.

Please pay to order of cashier National Bank of State of New York twelve hundred and fourteen $\frac{40}{100}$ dollars, and charge the same to my account.

(Signed) SUSAN S. FRANCKLYN.

Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

[Stamp of Providence Bank.]

Endorsed: For deposit, Chas. G. Francklyn." "Pay B. W.
408 Ham, cash., or order, credit the Nat'l Bank of the State of New York. Chas. B. Van Wyck, cash."

EXHIBIT 18. Jan. 31, '77. J. H. G., U. S. C.

$1,500. NEW YORK, *April* 13, 1872.

Please pay to the order of cashier National Bank of the State of New York fifteen hundred dollars, and charge same to my account.

(Signed) SUSAN S. FRANCKLYN.

Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

Endorsed: "For deposit. Chas. G. Francklyn." "Pay B. W. Ham, cashier, or order, credit the Nat'l Bank of the State of New York. Charles B. Van Wyck, cash."

(Written across the face:) Providence Nat'l Bank, Providence, R. I., April 15th, 1872. Paid.

EXHIBIT 19. Jan. 31, '77. J. H. G., U. S. C.

10 THIRTY-FIFTH STREET EAST,
N. Y., *Oct.* 3, '72.

William Sprague, Esq., guardian.

DEAR SIR: In an account received from you to-day I do not see any dividends credited for 1871–72, and I should be glad to know if any have been declared.

Yours very truly,

(Signed) SUSAN S. FRANCKLYN.

409 EXHIBIT 20. Jan. 31, '77. J. H. G., U. S. C.

10 THIRTY-FIFTH STREET, EAST,
N. Y., *Oct.* 12, 1872.

DEAR SIR: I have your favor of the 10th inst. To be more explicit, I received an account purporting to be an account current with you for the year ending October 1, '72, and in that account there is no credit for any dividends on the stock which you hold for me in the A. & W. Sprague Manufacturing Company and in the Quidnick Company. My letter was written to ascertain if any dividends had been declared by these companies, and I shall feel much obliged if you will let me know.

Yours very truly,
(Signed) SUSAN S. FRANCKLYN.

W. Sprague, Esq., guardian, Providence.

EXHIBIT 21. Jan. 30, '77. J. H. G., U. S. C.

NEW YORK, *Nov.* 7, 1872.

William Sprague, Esq.

DEAR SIR: Not having received any reply to my letter of 10th October, I beg once more to ask you if the A. & W. Sprague Manufacturing Company or the Quidnick Company earned any dividends for the year ending April, 1872, as I see none credited in an account sent to me up to the 1st of October last. It is not unnatural that I should wish to know something of my affairs.

Yours truly,
(Signed) SUSAN S. FRANCKLYN.

410 EXHIBIT 22. Jan. 31, '77. J. H. G., U. S. C.

$1,714.84. NEW YORK, *Nov.* 18, 1872.

Please pay to the order of cashier National Bank of State of New York seventeen hundred and fourteen $\frac{84}{100}$ dollars, and charge the same to my account.

(Signed) SUSAN S. FRANCKLYN.

To Messrs. A. & W. Sprague Manufacturing Co., Providence, R. I.

Endorsed: "Pay B. W. Ham, cash., or order, credit the Nat'l Bank of the State of New York. Chas. B. Van Wyck, cash."

(Written across the face:) Providence Nat'l Bank, Prov'd, R. I., Nov. 9, 1872. Paid.

EXHIBIT 23. Jan. 31, '77. J. H. G., U. S. C.

[Stamp, 2c.]

$1,500. NEW YORK, *April 1st*, 1873.

Please pay to the order of C. G. Francklyn fifteen hundred dollars, and charge the same to my account.

(Signed) SUSAN S. FRANCKLYN.

The A. & W. Sprague Manufacturing Co., Providence, R. I.

(Endorsed:) "For deposit. Chas. G. Francklyn. Pay B. W. Ham, cash., or order, credit the Nat'l Bank of the State of New York."

(Written across the face:) Providence Nat. Bank, Providence, R. I., April 2, 1873. Paid.

411 EXHIBIT 24. J. 31, '77. Jan. H. G., U. S. C.

OFFICE OF THE A. & W. SPRAGUE MANUFACTURING CO.,
PROVIDENCE, R. I., *Dec.* 8, 1873.

Received of William Sprague, guardian, the following property, viz:

One mortgage bond of Quicksilver Mining Co.	156	$1,000
One bond of the N. Y., Providence & Boston R. R. Co.	154	1,000
One U. S. 6% bond	29,661	100
One certificate of one hundred and twenty-two (122) shares of the National Bank of Commerce stock	77	
One certificate 31, of 122 shares of stock in Quidnick Company.		

(Signed) CHAS. G. FRANCKLYN,
For SUSAN S. FRANCKLYN.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } ss:
City, County, and State of New York, }

Be it remembered that on this 31st day of January, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, commissioner, duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me, at No. 111 Broadway, in the city of New York, in the said southern district of New York, in the State aforesaid, Charles G. Francklyn to testify and the truth to say on the part and behalf of the complainant in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United
412 States for the district of Rhode Island, wherein William S. Hoyt is complainant and Amasa Sprague and others are respondents, and in a certain other suit now pending and undetermined in said court, wherein Charles G. Francklyn and another are complainants and the said Amasa Sprague and others are respondents; and the said Charles G. Francklyn being about the age of thirty-two years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in matter of controversy aforesaid, I did carefully examine the said Charles G. Francklyn, and he did thereupon depose, testify, and say as follows, viz:

By Mr. BUTLER:

Q. You are the husband of Mrs. Francklyn, the plaintiff, the last witness examined?

A. Yes, sir.

Q. Please state your age, residence, and occupation.

A. Thirty-two; resident of New York, and merchant.

Q. You are the agent in this city—the agent of the Cunard line of steamers?

A. Yes, sir.

Q. How long have you been in business in the city of New York?

A. Thirteen years.

Q. Please state what knowledge or information, if any, you had in reference to the interest of your wife, Mrs. Francklyn, in the estate of her maternal grandfather, William Sprague, up to the time of the failure of the A. & W. Sprague Manufacturing Co.?

A. I had none, except such as were conveyed by the accounts which were rendered yearly from 1869 to 1872; William Sprague, guardian of Mrs. Francklyn.

Q. You refer to the accounts which have already been put in evidence in the course of her examination?

413 A. Yes, sir.

Q. Was any information ever furnished to you or to Mrs. Francklyn other than that conveyed by the accounts and papers which have been put in evidence on her examination?

A. None whatever.

Q. Had you any knowledge or information as to the steps, proceedings, or arrangements by which the property held or controlled by A. & W. Sprague was turned over or conveyed to the A. & W. Sprague Manufacturing Co.?

A. None until after the failure, and after investigation made the last two years.

Q. Please state what called your attention to the subject and induced the investigation to which you have referred?

A. The failure of the manufacturing company took me on to Providence, and there I saw the published schedule, which drew my attention particularly to the state of the accounts.

Q. State what, if any, demand you made upon the defendant, Zachariah Chafee, at that time.

A. I demanded the notes of the company for the balances due; the extension notes of the company for the balances that were due according to the published schedule.

Q. Up to that time had you any knowledge or information in reference to the facts which are alleged in the bill of complaint of yourself and Mrs. Francklyn in regard to the agreement and arrangements by which the A. & W. Sprague property was turned over to the manufacturing corporation?

A. I had seen an agreement some short time before, but I knew nothing whatever of the nature of it; simply an agreement to settle the affairs in some shape or other.

Q. But, as I understand you, you had no knowledge of the state of the accounts, or of the steps or proceedings which had been taken by the partners.

A. No knowledge whatever.

414 Q. Did you at that time, or about that time, make any examination of the books of A. & W. Sprague?

A. Shortly after that, whether it was the end of 1873 or beginning of 1874 I do not exactly remember; a few months after the failure I did.

Q. State what examination you made.

A. I spent a day looking over their books—journal and ledger.

Q. State the extent to which you have examined the books, the purpose for which you examined them, and the accounts to which your attention was directed.

A. I examined the books to see whether my wife had had fair play in the division of the money, &c., and I found there were very very large amounts of money there credited to William and Amasa Sprague, and also to Mr. Frieze, for commissions which seemed to be unfair, and I found generally that there were things which required further investigation in connection with the purchase of Byron Sprague's interest, and various things which led me to believe that it really belonged to the manufacturing company and not to A. & W. Sprague, as they seemed to show by the schedule that was made public. Mr. Chafee refused to give the extension notes.

Q. Please state what you did in consequence of the facts or supposed facts ascertainad by you as the result of this examination.

A. Previous to this examination we had attached certain property in Washington, on the refusal of Chafee to give us the notes—property in Washington and in various places. I would like to correct that. We demanded from Gov. Sprague the payment of this money which appeared as due, and, on his refusal to do that, we attached property in Washington and in Providence, the result of which was that Wm. Sprague offered us the securities which were held for Mrs. Francklyn, and some of which I accepted, as my receipt shows.

415 Q. This was before the examination that was made into the accounts?

A. Yes, sir.

Q. Please state whether those suits and proceedings were commenced and those securities, by which I understand you to refer to the shares of stock in the Quidnick Company and the Bank of Commerce and the bonds specified in the receipt signed by you December 8th, 1873, were all prior to the examination of the books which you subsequently made.

A. They were all prior to the examination of the books; the question then was about this balance of money which appeared due.

Q. When you say it appeared due do you mean it so appeared in the published statement of the A. & W. Sprague Manufacturing Company made under the directions of the creditors?

A. Yes, sir.

Q. What was that amount?

A. Somewhere about $220,000, if I remember right.

Q. That is the amount stated in the published schedule of the liabilities of the A. & W. Sprague Co. as due to William Sprague, guardian?

A. Yes, sir.

Q. The aggregate amount as represented by the schedule as due to William Sprague as guardian?

A. Yes, sir; we then were asked to go to Providence and examine the books and see if anything else was due us. I made an examination of the books, a hasty one rather, and found that there were a great many things there which were not satisfactory to me.

Q. Please state, as near as you can, the date of that examination made by you.

A. It was in January, 1874.

416 Q. What did your examination disclose as to the amount which Amasa & William Sprague had received credit for — commissions from 1st January 1866, to the 31st December, 1873?

A. Over a million of dollars, considerably. (After looking at paper:) $1,142,000.

Q. Was that the result arrived at by you by a personal examination of the books of A. & W. Sprague in the hands of Chafee?

A. Yes, sir.

Q. State whether or not you examined the books in reference to the amounts which had been credited and allowed to A. & W. Sprague from 1862.

A. From 1862? The books, I think, were only commenced in 1862.

Q. And you examined from the opening of the books?

A. Yes, sir.

Q. What did you find in that examination as to credits of commissions to Amasa & William Sprague and Lyman B. Frieze?

A. There seemed to be a commission account which was divided up between the three—Amasa Sprague, William Sprague, and L. B. Frieze; that was from November, 1862, until December, 1864—two years—and that amounted to $533,467, and was divided into equal parts; Amasa Sprague, William Sprague, and Lyman B. Frieze, $177,822 each.

Q. What further did you find in reference to credits for commissions on subsequent dates?

A. I found an entry in the journal crediting Amasa and William Sprague with a commission on the business of the firm from 1856 to 1862 amounting to $534,943.00, which does not appear to have been entered upon the ledger at all; I also found that from 1862 to 1865 they had credited themselves with $808,914.00 for commissions, and there appears to have been disallowed of that amount, I sup-

417 pose by the referee, $342,998.00, making a total of commissions credited to December, 1865, $465,915.00; it also seemed that at the time they purchased Byron Sprague's interest in the firm that they had no money to their credit to purchase with; therefore they used the funds of the firm to purchase it; and generally I found enough to make me think it was necessary that a very close examination should be gone into of the whole affair from the very beginning.

Q. Please state whether or not, after this personal examination of the books by you, and the results so ascertained, you directed a thorough

examination into all the steps and proceedings by which the property had been turned over and conveyed by A. & W. Sprague to the A. & W. Sprague Manufacturing Co.

A. I did.

Q. State whether or not you ascertained in the course of examination so directed, and for the first time, if so, that Mrs. Mary Sprague had not accounted as administratrix of William Sprague, deceased.

A. Then was the first time I heard it; yes, sir.

Q. Please state if you communicated the results of your examination to Mrs. Francklyn and to Mr. William S. Hoyt.

A. I did.

Q. Can you state from the examination of the books whether it appeared that a part of the consideration paid to Byron Sprague on the purchase of his interest was his proportionate share of the stocks transferred to him?

A. Yes, sir; it appeared there were a considerable number of stocks transferred to him.

Q. Do you recollect specifically the stocks in reference to which it was proved at the hearing before the commissioner on the 30th inst. that they were so transferred?

A. I did not hear.

418 Q. The Manhattan Bank stock and the Continental Bank stock?

A. Yes, sir.

Cross-examined:

Q. Do you mean to be understood as saying that you saw any evidence, from your inspection of the books, that either Amasa or William Sprague had ever drawn any sums of money from the amount of commissions to which you have referred?

A. It went to their personal account.

Q. That is not the question.

A. The cash-book was not shown to me; it was said to be missing.

Q. Were there any debit items on that account for money drawn?

A. There was a credit for commissions and the amount transferred to the personal credit of these individuals.

Q. On the same account was there also an entry of commissions that were charged back in 1865 as disallowed?

A. That entry was not posted.

Q. It was in the journal?

A. In the journal.

Q. Please look at the papers now shown you, and state whether the same are papers which are signed by you (papers shown witness).

A. Yes, sir; those are all right.

Above papers put in evidence and marked Exhibits Nos. 1 to 7, inclusive, Jan. 31, 1877, J. H. G., U. S. C.

The counsel here stipulated that copies of such papers as have been introduced in evidence in connection with the foregoing depo-

sition may be annexed hereto with the same force and effect as if the originals had been annexed.

It is stipulated that the testimony of this witness and of the
419 other witnesses to be examined on behalf of the complainant be taken down and written out by the stenographer with like effect as if written down by the commissioner in person, and is to be read over to the witnesses and signed by them respectively, and authenticated by the commissioner, and transmitted to the clerk in accordance with the equity rules, and that said testimony shall be used in both the above-entitled actions and in any proceedings therein with like effect as if separately taken in each of said actions.

On reading over the deposition the witness states that at the time referred to in first question, on 4th page, Zechariah Chafee had not become trustee.

The demand referred to in the answer was subsequent to that visit.

CHAS. G. FRANCKLYN.

Subscribed and sworn to before me February 9th, 1877.

JAMES H. GILBERT, *U. S. C.*

EXHIBIT No. 1. Jan 31, '77. J. H. G., U. S. C.

4 BOWLING GREEN, N. Y., *Sept.* 30, 1870.

Mrs. Francklyn would feel obliged if Mr. Green would send her an account current to date.

(No signature.)

EXHIBIT No. 2. Jan. 31, '77. J. H. G., U. S. C.

4 BOWLING GREEN, N. Y., *March* 27, 1871.

Mr. Green.

DEAR SIR: Will you kindly inform me, in course of post,
420 if any income tax return has been rendered for Mrs Francklyn for the year 1870, and oblige—

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

EXHIBIT No. 3. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *March* 29, —.

DEAR SIR: I will make the necessary income return for Mrs. Francklyn; so please leave the matter with me.

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

Mr. Green, Providence.

EXHIBIT No. 4. Jan. 31, '77. J. H. G., U. S. C.

4 BOWLING GREEN, N. Y., *Oct.* 2, '71.

DEAR SIR: Please send me Mrs. Francklyn's account current to 1st inst., and oblige

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

Mr. Green.

EXHIBIT No. 5. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *Oct.* 11, 1871.

Messrs. A. & W. Sprague.

DEAR SIR: Mrs. Francklyn has this day drawn on you for $1,214.40, being for balance of her account to 1st October, and 4% dividend from Bank of Commerce, supposed to be paid ere this.

421 Will you please let me know the marketable value of Bank of Commerce stock?

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

EXHIBIT No. 6. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *Oct.* 1, 1872.

Mrs. Francklyn will feel obliged if Mr. Green will send her an account to date.

Account to Oct. 1, '72, sent Oct. 2, '72.

(Signed) GREENE.

EXHIBIT No. 7. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *December* 9, 1873.

Charles Green, Esq.

MY DEAR SIR: Mr. Hoyt will hand you a lot of papers relating to sale and transfer of Quidnick stock. Will you please have the transfer made out in the following order, and Mr. Hoyt, as attorney for the different parties, will sign them:

First transfer, 122 shares, C. G. F. and Mrs. F. to G. C. Allen; no certificate required.

Next transfer, 122 shares, G. C. Allen to C. G. Franklyn.

Next " 123 " W. S. Hoyt to C. G. Francklyn.

Next " 122 " Ed. Hoyt, Jr., to C. G. Francklyn.

Then have the certificates signed, and give them to Mr. Hoyt to bring to me.

Please give this your attention early to-morrow morning.

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

422 UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } ss:
City, County, and State of New York, }

Be it remembered that on this tenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me, at No. 111 Broadway, in the city of New York, in the said southern district of New York, in the State aforesaid, Lyman B. Frieze, to testify and the truth to say, on the part and behalf of the complainants, in a certain suit or matter of controversy now depending and undetermined in the district court of the United States for the district of Rhode Island, wherein William S. Hoyt is complainant and Amasa Sprague and others are respondents, and in a certain other suit now pending and undetermined in said court, wherein Charles G. Francklyn and another are complainants and the said Amasa Sprague and others are respondents; and the said Lyman B. Frieze being about the age of fifty-two years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said Lyman B. Frieze, and he did thereupon depose, testify, and say as follows, viz:

By consent of respective counsel, the examination of this witness was then suspended and adjourned to Wednesday, January 24th, 1877, at eleven o'clock in the forenoon, at the office of Messrs. Butler, Stillman & Hubbard, No. 111 Broadway, in the city of New York.

By consent of respective counsel, the examination of this witness was adjourned to Tuesday, January 30th, 1877, at eleven
423 o'clock in the forenoon, at the office of Messrs. Butler, Stillman & Hubbard, No. 111 Broadway, in the city of New York.

NEW YORK, *January 30th*, 1877.

Parties met pursuant to adjournment, and the examination of LYMAN B. FRIEZE was continued as follows:

By Mr. BUTLER:

Q. Please state your age, occupation, and place of residence.

A. Fifty-two years old; cotton goods brokerage business, and reside on Staten Island.

Q. Do you know the parties to these actions—complainants and defendants?

A. Yes, sir; I know Mr. William S. Hoyt.

Q. And the other parties?

A. Yes, sir

Q. Were you at any time heretofore in the employ of the firm of A. & W. Sprague, or of the A. & W. Sprague Manufacturing Company?

EXHIBIT No. 4. Jan. 31, '77. J. H. G., U. S. C.

4 BOWLING GREEN, N. Y., *Oct.* 2, '71.

DEAR SIR: Please send me Mrs. Francklyn's account current to 1st inst., and oblige

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

Mr. Green.

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421 Will you please let me know the marketable value of Bank of Commerce stock?

Yours truly,

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EXHIBIT No. 6. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *Oct.* 1, 1872.

Mrs. Francklyn will feel obliged if Mr. Green will send her an account to date.

Account to Oct. 1, '72, sent Oct. 2, '72.

(Signed) GREENE.

EXHIBIT No. 7. Jan. 31, '77. J. H. G., U. S. C.

NEW YORK, *December* 9, 1873.

Charles Green, Esq.

MY DEAR SIR: Mr. Hoyt will hand you a lot of papers relating to sale and transfer of Quidnick stock. Will you please have the transfer made out in the following order, and Mr. Hoyt, as attorney for the different parties, will sign them:

First transfer, 122 shares, C. G. F. and Mrs. F. to G. C. Allen; no certificate required.

Next transfer, 122 shares, G. C. Allen to C. G. Franklyn.

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Then have the certificates signed, and give them to Mr. Hoyt to bring to me.

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Yours truly,

(Signed) CHAS. G. FRANCKLYN.

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City, County, and State of New York, }

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NEW YORK, *January 30th*, 1877.

Parties met pursuant to adjournment, and the examination of LYMAN B. FRIEZE was continued as follows:

By Mr. BUTLER:

Q. Please state your age, occupation, and place of residence.

A. Fifty-two years old; cotton goods brokerage business, and reside on Staten Island.

Q. Do you know the parties to these actions—complainants and defendants?

A. Yes, sir; I know Mr. William S. Hoyt.

Q. And the other parties?

A. Yes, sir

Q. Were you at any time heretofore in the employ of the firm of A. & W. Sprague, or of the A. & W. Sprague Manufacturing Company?

EXHIBIT No. 4. Jan. 31, '77. J. H. G., U. S. C.

4 BOWLING GREEN, N. Y., *Oct.* 2, '71.

DEAR SIR: Please send me Mrs. Francklyn's account current to 1st inst., and oblige

Yours truly,

(Signed) CHAS. G. FRANCKLYN.

Mr. Green.

EXHIBIT No. 5. Jan. 31, '77. J. H. G., U. S. C.

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Q. Do you know the parties to these actions—complainants and defendants?

A. Yes, sir; I know Mr. William S. Hoyt.

Q. And the other parties?

A. Yes, sir

Q. Were you at any time heretofore in the employ of the firm of A. & W. Sprague, or of the A. & W. Sprague Manufacturing Company?

A. I was, sir; I think I went with them in the fall of 1863 and I left them in the spring, or early in 1867.

Q. In what capacity were you engaged in connection with their business?

A. I went to assist in the general management of the business.

Q. Can you give the date of your first employment?

A. I can't give it to you exactly from the fact that I went over there temporarily first, I think, some time in September or October, 1863.

Q. Had you had any knowledge of the business prior to that time?

A. No knowledge of their business; no, sir.

Q. Had you acted as appraiser in connection with the ascertainment of the value of the interest of Byron Sprague?

A. Yes, sir; I acted as referee between Byron Sprague and William Sprague.

424 Q. When was that?

A. I think that was in the summer of 1863. It is so long since I have forgotten the dates.

Q. Was it prior to the purchase by the other partners of the interest of Byron Sprague?

A. Yes, sir.

Q. What did you do in reference to ascertaining the value of the interest of Byron Sprague in the property?

(Objected to as impertinent to the issue and irrelevant.)

A. We appraised the property belonging to the concern of A. & W. Sprague, and we got it as near a cash valuation as we could under the circumstances.

Q. I am asking you in reference to this appraisement for the purpose of fixing the time when you first had to do with the business of A. & W. Sprague; please state how long you were engaged in the work of appraising.

A. I think it was some two or three months.

Q. How long after the appraisal was completed and the sale made before you entered into the employ of the remaining partners?

A. I should say some two months before I went into their employ.

Q. Who composed the firm at that time?

A. Amasa Sprague, William Sprague, and Byron Sprague were all that I knew as composing the firm.

Q. And after the retirement of Byron who composed it?

A. Amasa & William Sprague.

Q. To what extent did William Sprague give any personal attention to the business?

A. Well, he had a general oversight while he was there, and when absent was advised continually of the progress of the business of what was going on.

Q. How as to Amasa Sprague?

425 A. Amasa Sprague gave the most of his time to the business there; he was at the print works and in Providence.

Q. Please state what amount of time and attention you gave to the business of the firm.

A. After I became employed by them I gave my whole time from morning till night; very seldom absent from business.

Q. How long did you continue in the employ of the firm?

A. About four years.

Q. Please state what books of account were kept in the business at the time you first took charge.

A. They had a regular set of books kept in single entry under the name of A. & W. Sprague.

Q. By whom were these books kept?

A. I think their principal book-keeper was Mr. William W. Paine, assisted by Mr. Charles H. Jillson.

Q. What books were kept while you were there?

A. After I had been there a short time I opened new sets of books, double entry.

Q. And were those books kept by you or under your supervision from that time forward?

A. Under the supervision of the concern A. & W. Sprague by an experienced book-keeper.

Q. Give his name.

A. Charles H. or Charles W. Green; I forget which.

Q. Please name the different mills and properties owned and managed by the firm of A. & W. Sprague, exclusively of the Quidnick mill, while you were there.

A. Cranston Print Works, Cranston, Rhode Island; Baltic mills, Sprague, Connecticut; Natic mills, Natic, R. I.; that is what they had when I went with them; that is outside of the Quidnick property.

Q. Do you know anything about the title to these different pieces of property; in whose names they stood?

426 A. It is my impression that when I was with them they all stood in the name of A. & W. Sprague.

Q. Did not a portion of it stand in the name of William Sprague, father of Byron?

A. There was some property stood in his name, but I forget now what it was, whether it was manufacturing or farming property.

Q. Do you know anything in reference to the purchase of the interest of Almira Sprague in the properties?

A. No, sir; I do not.

Q. Was the purchase of Byron's interest completed before you went with the firm?

A. Yes, sir.

Q. Do you know in what manner that purchase was completed; I mean how the payments were made?

A. I think the payments were mostly in cash.

Q. To what extent was property jointly owned by the firm divided so as to give Byron his proportionate share in the property?

A. He was supposed to be the owner of one-sixth of the property, and they gave him the value of one-sixth, and as to how the pay-

ments were made I forget now, whether cash or otherwise; I think it was mostly cash.

Q. Do you know whether not to some extent separate pieces of property or separate estates were divided, and his share set off to him?

A. I forget whether that was the case.

Q. By whom were the cash payments made to him?

A. I think that I made one cash payment after I went there.

Q. From what funds?

A. From the funds of A. & W. Sprague.

Q. Can you state the amount so paid?

A. I think the payment was somewhere about $200.000.

427 Q. And was this payment made out of the general funds of the firm?

A. Yes, sir; in checks.

Q. Was any separate or special account entered or made in the books in reference to this transaction of Byron Sprague?

A. It is my impression that the amounts were charged equally between William and Amasa Sprague on the books.

Q. Can you state whether or not, up to the time of your going into the employ of A. & W. Sprague, separate accounts had been kept in their books with the different members of the family interested in the property?

A. It is my impression that there had not been.

Q. State whether or not you did anything in the new system of accounts which you introduced in reference to separate accounts with the members of the family?

A. I did, sir; I opened accounts with the individual members of the family.

Q. Please give the names of the individual members of the family in respect to whom accounts were so opened.

A. Any one who had funds from the concern; Amasa Sprague, William Sprague, Fannie Sprague, Mary Sprague, and any one else who had funds from the concern.

Q. Besides the names you have given, do you recollect any person who drew funds from the firm connected with the family?

A. I have no distinct recollection about the matter now.

Q. By whose direction or authority were funds drawn from the firm by either of the parties you have referred to?

A. By A. & W. Sprague.

Q. Were you paid by salary or commission?

A. I was paid by salary, and if the salary was not considered sufficient they were to pay me something outside of that.

Q. Was any account opened or kept by which the commissions were credited to you?

428 A. There was an account opened to that effect.

Q. Please state the nature and object of that account.

A. The account was opened by the order of William Sprague as a commission for doing the business of the concern; I don't recollect the period now; he ordered the book-keeper to place a certain portion to my credit and a certain portion to Amasa Sprague and a certain portion to William Sprague.

Q. Can you state during what period of time that account continued?

A. No, sir; I could not.

Q. Upon what basis were the commissions which entered into that account charged?

A. On the basis of the business done by the concern; the amount of business done by the concern.

Q. At what rate were the commissions charged?

A. That I couldn't tell.

Q. Was that account ever settled as between you and Amasa and William Sprague?

A. I could say that I never drew anything on that account; how it has been settled I don't know.

Q. Do you mean that you never received the commissions which were credited to you in that account?

A. No, sir.

Q. What disposition was made of them?

A. I couldn't tell; I left the account there.

Q. What was the amount of commissions so charged?

A. I don't recollect; I couldn't tell without referring to the books.

Q. Please state as near as you can.

A. I couldn't say whether it was $125,000 or $250,000.

Q. Can you state whether it was as much as $125,000?

A. From the best of my recollection I should say it was.

Q. Have you no more definite recollection than that the amount was not less than $125,000 and not over $250,000?

429 A. No, sir; from the fact that I have not considered the matter for ten years now.

Q. Can you explain the object of opening an account in which you were credited with commissions which you never received?

A. I suppose the intention when it was opened was to pay me the whole or a portion of those commissions if I had continued with them?

Q. Do you know what occasioned a change of that intention?

A. My leaving the concern, I presume.

Q. What salary did you receive?

A. $10,000 a year; a fixed salary.

Q. And was that salary paid up to the time of your leaving?

A. Yes, sir.

Q. Was the subject of the account opened for commissions a matter of consultation between you and A. & W. Sprague, or either of them?

A. No, sir.

Q. Was it a matter of conversation between you at any time?

A. I think when the accounts were first opened it was a matter of conversation in regard to one of the partners wishing me to become interested in the business of the concern as a partner, and that I objected to at the time; I thought I should be too small a fish in so large a pond, and they suggested this way of fixing it, but still I don't know that they imagined that I would have the whole amount of that commission.

Q. Did you have any claim for any portion of it?
A. No, sir.
Q. When did I understand you to say you left the concern?
A. I think it was in February, 1867.
Q. Was the account in reference to commissions which you
430 have spoken of the only commission account on the books so far as Amasa and William Sprague were concerned?
A. So far as I know anything about them.
Q. Do you know the amount of commissions?
A. That is all I recollect about this one.
Q. Were commissions credited to Amasa and William Sprague on the books?
A. Yes, sir; I believe they were.
Q. Can you state the amount of commissions standing to their credit on the books at any time?
A. No, sir.
Q. Do you know anything about an item of $534,943.34 entered December 31, 1863, for commissions from the death of William Sprague, in 1856, to November 7, 1862?
A. No, sir.
Q. Did you ever have any conversation with William Sprague on that subject?
A. Have no recollection of any conversation with him on that subject.
Q. Or any knowledge about it?
A. No recollection of it.
Q. Did you have to do with the agreement or appraisal made in the spring of 1865 between Amasa and William Sprague and other parties interested in the property?
A. No, sir.
Q. You were there in charge of the books of account, were you not?
A. General business; yes, sir.
Q. Were you called upon or did you act in any way in making up any statements of account for the purposes of that agreement or appraisal?
A. I have no recollection of doing anything of the kind myself; if anything was done the book-keeper did it.
Q. State how it was as to the agreement or appraisal being made with or without your knowledge?
431 A. I don't say it was made without my knowledge.
Q. I want you to state how that was—whether it was made with or without your knowledge?
A. This was in reference to the concern being incorporated.
Q. This is in reference to the agreement between A. & W. Sprague and other parties interested in the property, and the appraisal of values?
A. The matter was probably brought to my attention, and I may have given some advice about it, but the whole thing was then left to the referees to go and value this property. I have no recollection of having anything to do with it directly. I was generally going on

at the time with the general business of the concern, which took about all my attention.

Q. Please state whether or not you have any knowledge or recollection of any examination of the books by the referees, or any statement of the accounts to them for the purposes of that agreement or appraisal.

A. I have no recollection about it to-day.

Q. I understand you to say that you did not yourself make any examination of the books, or any statement of the accounts in connection with that agreement and appraisal?

A. I have no recollection of doing it.

Q. State whether or not any entries were made by you, or under your supervision, in connection with the agreement or appraisal.

A. I could not tell you whether they were made under me or some one else.

Q. Were any entries made in the books, or any accounts taken, so far as you recollect, in connection with the agreement or appraisal before or after?

A. When the concern was organized the stock accounts were opened.

Q. You mean when the manufacturing company was organized?

432 A. Yes, sir; then different stock accounts were opened after that.

Q. Was any entry made in the accounts of either A. or W. Sprague, or any change made in those accounts in connection with the agreement and appraisal, or in consequence of the same?

A. I have no recollection to-day of anything about it.

Q. When you say you have no recollection to-day I understand you mean you have no recollection of any such fact?

A. Yes, sir.

Q. Can you state whether or not, so far as you know, the books and accounts remained the same before and at the time of the agreement or appraisal and thereafter as to the personal accounts of Amasa and William Sprague?

A. I have no recollection of anything about it particularly, except the transfer to the new books.

Q. Were any commissions or other sums that were credited to Amasa or William Sprague before the agreement and appraisal charged back after the referee's or appraisers' report, so far as you know?

A. Not to my knowledge.

Q. Were any commissions that were disallowed by the referees ever charged back to or paid by Amasa or William Sprague in any way?

A. I have no recollection of it.

Q. No recollection that they ever were?

A. No, sir.

Q. What was done after the organization of the company in the matter of opening new books of accounts?

A. I think new books were opened and the old accounts were transferred to them.

Q. Can you state when that was done, if it was done?

A. I can't.

433 Q. Will you state positively that it was done?

A. I cannot to-day.

Q. You say "I cannot to-day;" I want to know if you have any means of information that will enable you to state at any time?

A. No, sir.

Q. When did you last see the books?

A. I saw the books at the time of the failure, just after the suspension.

Q. In whose possession?

A. In the possession of the assignee, I think.

Q. Mr. Chafee?

A. Yes, sir.

Q. What was the business carried on by A. & W. Sprague from 1863 onward?

A. From 1863 to 1867?

Q. Yes.

A. It was manufacturing cotton cloth, printing the same, and shipping it to market and having it sold.

Q. State how the volume of business subsequent to 1863 compared to that prior to that date?

A. The business increased very much in 1863, 1864, 1865, and 1866.

Q. Were new buildings and new machinery erected and perfected within that period?

A. The print works were increased considerably in capacity; the Arctic mill was destroyed by fire and rebuilt; the United States Flax Co. was purchased during that time and started.

Q. Was there a corresponding increase in the value of the properties?

A. Yes, sir.

Q. The mill property is valued, is it not, by the spindle?

A. Yes, sir.

434 Q. Please give a statement of the value of the mill properties owned by A. &. W. Sprague in 1862 and 1863 and subsequent years.

A. In 1862 the valuation had been pretty low; it depended, of course, altogether on the order the mills were in; they would run from $5 to $15 a spindle, according to their condition; I could not give you a fair valuation of those mills without considering the state of the markets at the time and the condition of the machinery.

Q. Was it not the fact that the value of the mill property was greatly increased in 1865 over what it had been in the previous years?

(Objected to as irrelevant to the issue and incompetent, and bearing as the same does upon the fairness of the appraisal of 1865.)

A. I should have to look to see what the state of business was in

1865 in order to give a fair value of it; however, goods were high; still in 1865 they may not have been making much money, and if so it would deteriorate the property—depreciate it.

Q. Were not the profits of the business largely increased in 1865 on what they had been in previous years?

(All inquiries touching the fairness of the appraisal of 1865, by comparing the same with any prior appraisal, are objected to.)

A. I do not know what the profits of the business were in 1862, as I was not conversant with their books and knew nothing of what they had done; in 1863 and 1864 they were very much larger, I should imagine, than prior to that time, the profits; in 1865 or 1866 the great decline began, and it is on that point it is difficult for me to give any answer from the fact I don't know exactly when that point commenced in the great decline of cotton goods.

435 Q. Up to the time of the great decline of which you speak the profits had steadily increased, had they not, from 1862?

A. Yes, sir; from 1862.

Q. You heard the testimony given before the commissioner this morning by Mr. MacKenzie?

A. Yes, sir;

Q. Is the statement which he has made from the books of Hoyt, Spragues & Co. in reguard to the transactions between A. & W. Sprague and that firm correct, according to your recollection?

A. One statement he made was incorrect, my drawing drafts on Hoyt, Spragues & Co.; that was incorrect, I believe; my whole power was to draw checks; I don't think I drew drafts; have no recollection of it to-day.

Q. Aside from that was his testimony in reference to the general nature of the transactions correct?

A. They were, as far as I can recollect.

Q. Was any account kept, or entry made, so far as you know, on the books of A. & W. Sprague corresponding with the stock account testified to by Mr. MacKenzie as having been kept in the books of Hoyt, Spragues & Co. with the several partners of that firm?

A. I am in doubt as to whether there was any stock account on the A. & W. Sprague Manufacturing Co. books, or on the books of A. & W. Sprague.

Q. Was there any account on the books of A. & W. Sprague as to the interest of that firm in the firm of Hoyt, Spragues & Co.?

A. I have no recollection of it.

Q. Did you know, in March, 1865, or did you make any effort to ascertain, what was the state of the account between A. & W. Sprague and Hoyt, Spragues & Co. in reference to the interest of the former firm in the business of the latter?

A. I have no recollection of it one way or the other.

436 Q. Do you know what were the assets and liabilities of A. & W. Sprague in March, 1865?

A. No, sir; I could not give you any estimate of them.

Q. Can you state to what extent the assets and the liabilities appeared on their books at that time?

A. No, sir; I can't recollect; I could come nearer the liabilities, but I don't recollect the assets that we generally carried; I can state the liabilities generally carried by the concern, but I cannot the assets.

Q. Please state the liabilities of the concern at that time, as near as you can.

A. I should say about a million of dollars.

Q. And of what did those liabilities consist; I mean as to their general character?

A. Either notes or book accounts for cotton goods on short time.

Q. When was it that the liabilities of the concern, either A. & W. Sprague or the manufacturing company, began to be larger in amount?

A. Well, not very much larger until after I left them; they may have been run up from $1,500,000 to $2,000,000—just as we happened to be doing business in buying cloths and cotton.

Q. Do you know whether the amounts drawn by Amasa and William Sprague, respectively, were charged when drawn to their respective accounts?

A. Yes, sir; so far as I have knowledge of them when I was with them.

Q. Can you state from recollection and approximately how much was drawn by them personally during the time that you were with them?

A. No, sir; I could not give you any idea.

Q. Do you know that the amounts were large?

A. Yes, sir; quite large.

Q. What do you call quite large?

437 A. Well, they must have gone into a hundred thousand and more; I call that large—$100,000 and $150,000—but I have no idea of the amounts that were charged on the books.

Q. Do you know that the amounts drawn by William Sprague were largely in excess of $100,000 a year?

A. I have no knowledge, except from hearsay, since I left them; I never gave much attention while I was there with them.

Q. Were there speculative transactions by Amasa and William Sprague outside of the regular business of the firm?

A. I have no recollection of anything of that kind in 1863, 1864, and 1865.

Q. Were any accounts kept relating to any such transactions?

A. I think, after the incorporation of the concern, that they had individual accounts, and they kept it open individually for the purpose of endorsing the A. & W. Sprague Manufacturing Company paper.

Q. Did not they in 1863 and 1864 have such accounts?

A. The books of 1863 and 1864 were A. & W. Sprague, and whether there was any separate individual accounts in the operations I don't recollect.

Q. Did they not have accounts relating to purchases of cotton which they supplied to the mills?

A. No, sir; not that I am aware of; I would say they had an

open account of some kind that commenced before I went there; our southern account which I closed up, I think, after going with them.

Q. Do you recollect the result of that account?

A. I do not, sir.

Q. Whether it showed a profit or loss?

A. It is my impression it was very little either way.

438 Q. When you speak of $1,000,000 or $1,500,000 of liabilities carried by the concern do you mean general liabilities, to meet which they had abundant assets?

A. Yes, sir.

Q. Have you any knowledge as to the method which the referees pursued or the data on which they acted in making up their valuations?

(The defendants object to any line of inquiry which looks to impeaching the fairness of the appraisal had in 1865.)

A. I am under the impression that they were furnished with a schedule of the property on visiting the different establishments and consulting with some experts in regard to the value of the property at that time; that is my impression.

Q. Do you know what information they had or what they did in reference to ascertaining the state of the accounts as they appeared on the books?

A. It is my impression, as near as I can recollect, that they were put in communication with the book-keeper in the office; my time was very much occupied at that time with the general business outside, and, I think, William Sprague took charge of it and put them in communication with the book-keeper; he gave his attention to that thing more than I did.

Q. Can you state whether or not the books had been so kept as to show the actual condition of the business and affairs of A. & W. Sprague at the time the appraisal and valuation was had?

A. Yes, sir; I think they were in proper condition at that time to give a fair judgment on the whole matter.

Q. I did not ask for judgment; I asked as to the condition of the books as to their showing the exact condition of the affairs.

A. I think at that time the books had been thoroughly overhauled, and the new books opened, and the property scheduled, and the business of the company all entered thereon.

439 Q. How was it as to the old books showing what sums of money had been withdrawn by different parties interested in the property?

A. Well, the old books; they kept a general account; I don't know exactly how it was done; it was not in accordance with my ideas of book-keeping, and I did not continue in that way; I opened a new set afterwards, and transferred our regular accounts to those books, and opened accounts with members of the company—with the different parties in interest; I never knew what was to be charged to them or credited to them from the old books.

Q. Then, in speaking of the books as showing the condition and

affairs of the business, you speak of the new books which you opened?

A. Yes, sir.

Q. And which contained such items and accounts from the old books as you had transferred?

A. Yes, sir; took everything from those books that it was proper to transfer, or could be.

Q. When were the new books made by you?

A. I commenced opening those books very soon after I went there; perhaps I may have been there some two or three weeks, and I found that the old system of book-keeping was not proper for so large a concern, and went immediately to have new ones opened, and they were started in the first place by Mr. Jillson, and I found he was not competent, never having been posted in double entry, and as it took too much of my time in giving him information I then employed Mr. Green, and in that way got the books opened; a schedule of the property was entered on the books under the different heads and the accounts with the different parties in interest, so far as we had any charges to make, or credits.

Q. Was this before or after Byron's interest was purchased by the others?

440 A. After Byron's interest was purchased the old books were under Byron's charge in the old system of book-keeping.

Q. In your work of transferring the accounts did you find or ascertain whether any division of profits had ever been made as such?

A. No; not so far as I could ascertain; none had ever been made.

Q. Had any settlement of accounts ever been made as between the representative of Amasa Sprague, the elder, or of William Sprague, the elder, or as between the firm and any individual or representative of any deceased party interested in the property or business?

A. I had no knowledge of any such settlement.

Q. If any such settlement had been made it should have appeared on the books?

A. It ought to have appeared on the books.

Q. Had there been any accounts or system of accounts so made or kept as to show the different interests of the parties in the property or the business?

A. No, sir; not until after I went there.

Q. In opening the new accounts what basis had you for making separate accounts with individual parties?

A. In opening accounts I opened all the property accounts of the concern; I made no division as to interest at all on the books, but simply debited any funds that were paid out to the parties in interest, and credited anything that might be paid in.

Q. Then those were simply separate accounts with certain individuals?

A. With certain individuals; that is all.

Q. When you speak of anything that was paid in you do not mean

that any contributions were make by way of capital or increase by any of the individual parties, do you?

A. I don't know that anything was paid in, if there was.

Q. There was no capital or joint stock, except the several properties and the common assets of the copartnership?

441 A. That is all, sir.

Q. In what way did you ascertain who the individual parties were with whom you were to open accounts in the new set of books?

A. I did not open any accounts unless they had something to be charged against them; I understood that Mary Sprague was a party in interest, or Fannie Sprague a party in interest; if they called for money it was paid to them and charged to them individually; I had no particular instructions about it, except a general understanding that if the party wanted money, and they did not want too much, to pay it to them.

Q. In opening the new books you assumed the correctness of the old accounts, as far as they went?

A. I examined a great many of them.

Q. Then, as I understand you, when you opened the new set of books, it was simply for the purpose of keeping the accounts with more exactness and regularity in regard to receipts and payments?

A. In regard to the whole business.

Q. There was no attempt to separate or distinguish the interests of the different parties concerned in the property?

A. No, sir; it was simply a matter of mine that I declined staying there unless new and proper books were opened that I felt I could be responsible for and take the responsibility of running.

Q. So far as debit or credit balances were concerned, the old books were the basis of the new?

A. Yes, sir; the old books had no property accounts on them, no schedule of the property.

Q. What do you mean by property accounts?

A. Books to show what property they had; we would make the Baltic mill estate — bring it on the books by charging to the estate.

Q. You give that as an illustration?

442 A. Yes, sir; it was simply a way of getting all the assets on the books; it was my impression there was no valuation put to them, but simply connected them on the books where they had before not been entered anywhere.

Q. Then the main difference of the new accounts from the old consisted in keeping the accounts of each property separate from the other?

A. No, sir; we had a different system entirely of debits and credits by double entry; each entry checked itself from something else; it was a more accurate system of book-keeping by which we could carry on the business with less trouble and be more accurate.

Q. As to the real estate of the account of any party interested, there was no change by opening the new books?

A. No, sir; because there never had been any division.

Q. And any balance apparently debited or credited to the parties so interested in the old books was transferred to the new books?

A. Yes, sir.

Q. And no appraisal or valuation or other ascertainment of the value or respective interests was made in reference to opening the new books?

A. None at all.

Cross-examined:

Q. Do you remember any of the circumstances which induced an appraisal of the property in 1865. If so, please state it.

A. Well, my impression in regard to the matter is that the appraisal of the property was made for the purpose of incorporating it, so that it could be divided, and find out the individual interest of the different parties; there were other circumstance that I do not recollect; I have given very little thought to the matter for the last seven or eight years.

443 Q. Do you now recollect what was the state of feeling on the part of Mary Sprague, the mother of Byron Sprague, towards Amasa and William Sprague between 1862 and the spring of 1865?

A. I knew that their feelings were quite bitter towards them in regard to Byron's matter, and my impression is, she wished to sell out her interest and withdraw from the firm.

Q. Do you remember whether any litigation was threatened prior to the time that the agreement or appraisal was made between all the parties in interest.

A. I recollect that there was.

Q. At the time that you went into the employment of the firm, Amasa Sprague, William Sprague, and Byron Sprague were the partners, as I have understood you to say?

A. Yes, sir; Mr. Mackenzie said so.

Q. Who composed the firm of A. & W. Sprague previous to that personal organization?

A. Previous to Byron?

Q. Yes.

A. It was Amasa Sprague and William Sprague, I believe; the father and uncle of Byron, Amasa, and William Sprague.

Q. When did Amasa Sprague die?

A. It is my impression he died in 1856.

Q. No, Amasa?

A. Well, that was some time in 1843 or 1844.

Q. Who, after the death of Amasa Sprague, senior, carried on and managed the business?

A. William Sprague, senior.

Q. When did William Sprague die?

A. I think he died in 1856; that is my impression.

Q. Do you know how long prior to his death a copartnership was formed, in which any of the junior members of the family were taken in?

444 A. I could not tell you to-day; I don't recollect; I think it was a year or two previous; I have not much recollection about those things, from the fact that I had so much work ahead that I did not look far back.

Q. Do you know of your own knowledge that either Amasa or William Sprague ever drew for their own use any sums of money from any commission account that was credited to them?

A. I am not aware of any.

Q. In giving an account of the properties that were purchased during the time that you were with the company, please state whether the negotiation for the Augusta property, manufacturing property, took place prior to the time of your leaving their employment or afterward.

A. It took place prior to my leaving.

Redirect:

Q. When you answered the question in regard to threats of litigation, did you mean that Mrs. Sprague threatened litigation?

A. Threatened litigation—yes, sir.

Q. When did she make such threats?

A. It was some time, I think, after Byron sold out.

Q. When did she make such threats?

A. Well, the general report at the office—I don't know how I came in possession of the facts, but I think it was through counsel that she threatened to sue for a division of the property; that is my impression about it.

Q. To whom do you refer as counsel?

A. I think Mr. Thurston was her counsel at that time; I am under the impression I got it from Mr. Thurston at the time.

Q. Yo do not mean to be understood as testifying that you ever heard Mrs. Mary Sprague make any threat to anybody?

445 A. I should not want to swear to that; I had a great many conversations with her when she felt very bitter, and I could not swear that she ever made the threat.

Q. What you mean to testify is that you gather from what Mr. Thurston said to you that she had some such intention?

A. Yes, sir; I don't say positively it was Mr. Thurston, but he or her, or some member of the family; I had the fact very well fixed in my mind at the time, and I went over and conversed with her several times on these matters, to make an explanation to her.

Q. That is all you mean by speaking of threats?

A. Yes, sir.

At the close of this witness' testimony the following stipulation was made by counsel: That on the 21st March, 1863, A. & W. Sprague transferred to Byron Sprague 22 shares of the capital stock of the Continental National Bank of the City of New York, and ten shares on the 11th August, 1865, also to him, and that on the last mentioned day they transferred 91 shares of said stock to the A. & W. Sprague Manufacturing Co.; ten shares of said stock to Mary Sprague —making 133 shares in all so transferred.

Also, that on the 21st March, 1863, A. & W. Sprague transferred to Byron Sprague twenty-eight shares of stock of the Bank of the Manhattan Company in the city of New York.

It is stipulated that the testimony of this witness and the other witnesses to be examined on behalf of the complainant be taken down and written out by the stenographer with like effect as if written down by the commissioner in person, and is to be read over to the witnesses and signed by them, respectively, and authenticated by the commissioner and transmitted to the clerk in accordance with the equity rules, and that said testimony shall be used
446 in both the above-entitled actions and in any proceedings therein with like effect as if separately taken in each of said actions.

LYMAN B. FRIEZE.

Subscribed and sworn to before me this 26th day of February, 1877.

[L. S.] JAMES H. GILBERT,
U. S. Commissioner, South. Dist. of N. Y.

UNITED STATES OF AMERICA.

SOUTHERN DISTRICT OF NEW YORK, } *ss:*
City, County, and State of New York, }

Be it remembered that on this third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, I, James H. Gilbert, a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of section 627 of the Revised Statutes of the United States, did call and cause to be and personally appear before me, at my office, at No. 20 Nassau street, in the city of New York, in the said southern district of New York, in the State aforesaid, Frederick S. Wells, to testify and the truth to say, on the part and behalf of the complainants, in a certain suit or matter of controversy now depending and undetermined in the district court of the United States for the district of Rhode Island, wherein William G. Hoyt is complainant and Amasa Sprague and others are respondents, and in a certain other suit now depending and undetermined in said court, wherein Charles G. Francklyn and another are complainants and the said Amasa Sprague and others are respondents; and the said Frederick S. Wells, being about the age of thirty-nine years, and having been by me first cautioned and
447 sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said Frederick S. Wells, and he did thereupon depose, testify, and say as follows, viz:

(It is stipulated by counsel that the examination of this witness may be taken in the absence of counsel for the respondents, their right of objection being reserved to them, and that this witness shall be produced for cross-examination on notice by the counsel for the respondents.)

I reside in the city of New York; I am engaged in business in said city as a dry goods merchant.

Q. Please state what your business was in 1862.

A. I was employed as salesman by Hoyt, Spragues & Co.

Q. How long had you been in their employ?

A. I think it was in 1854 that I went there; the concern then was Hoyt, Tillinghast & Co.; I continued with Hoyt, Spragues & Co. until their failure.

Q. Did you, as such salesman, make sales of the consignments to Hoyt, Spragues & Co. by A. & W. Sprague, of Rhode Island?

A. Yes.

Q. Can you state at what prices the goods consigned by them, of various kinds, were selling at and about November 7th, 1862. If so, please state, giving the description of the goods and the prices.

A. Dark fancies and staples at 20 cents; pinks, frocks, buffs, and purples at 20 cents; shirting, 19½ cents; mornings, 18 cents; delaines, 19 cents; alacians, 25 cents; blocked goods, 25 cents; black alacians, 18 cents; canaries and orange polkas, 17½ cents; reds, 20 cents; reds with orange, 20⅓ cents; style, C. 3, 20 cents; style, 162, 20½ cents; solids, 19½ cents; greens, 18 cents; blues, 20 cents; Jackson
448 reds, 19½ cents; Jackson reds with orange, 20 cents; sundry alacians, 24 cents; seconds of alacians, 23½ cents; remnants of alacians, 23 cents; seconds of blocked goods, 23½ cents; sundries of blocked goods, 24 cents; sundries, 19½ cents; seconds, 19 cents; assorted and double styles, 20 cents.

Q. Do you remember knowing of Byron Sprague selling out his interest in the firm of A. & W. Sprague?

A. I heard of it at the time.

Q. Were you at the time called upon, in that connection, to make up a list of the prices at which the Sprague goods were selling at that time?

A. Yes.

Q. Did you make and furnish such a list?

A. Yes.

Q. Was that list the same as you have given above?

A. Yes.

Q. Did the prices of those goods advance after that date?

A. Yes.

Q. Do you remember whether the volume of business increased after that date, and if so, state the amount of such increase—that is, the amount of increased consignments from A. & W. Sprague to Hoyt, Spragues & Co.?

A. The volume of business from A. & W. Sprague to Hoyt, Spragues & Co. gradually increased, yearly, from one thousand to two thousand packages per annum, and some years even more than that.

Q. Will you state at what prices these goods were selling on or about March 31st, 1865?

A. The price for the fancy prints was about the same on that date.

Q. What advance was there subsequent to that?

A. There was a rapid advance during the following summer.

Q. How was it August 9th?

449 A. The value was about 30 to 31 cents.

Q. Did they go up any higher after that?

A. There was a further advance after that date of from 7½ to 10 cents.

Q. Please state whether there was a corresponding increase in the other goods in your list.

A. There was.

Q. Do you remember whether there was a large stock of goods on hand in March, 1865, that had been consigned by A. & W. Sprague?

A. I do not; I do not think there was a very large stock for them.

Q. What was the ordinary stock carried for their account by Hoyt, Spragues & Co.?

A. It was rarely less than one thousand, and probably at that time did not exceed two thousand packages.

Q. Were you actively engaged in the sale and handling of these goods in March, 1865, and in the summer?

A. I was.

Q. Have you any recollection of any appraisement being made in March, 1865, or the following months down to August, 1865, of the stock of goods on hand?

A. I have not.

Q. Did you keep a book from looking at which you can state about the number of cases, with approximate exactness, which were on hand March 31st, 1865?

A. I did keep such a book, which will show about the stock on hand on that date.

Q. Will you furnish that statement, to be annexed to your deposition?

A. I will endeavor to——

Q. What was the quality and reputation of the Sprague goods in 1865, as compared with previous years?

450 A. They were a well-known and first-class brand, at all times, up to that year.

FREDERICK S. WELLS.

Subscribed and sworn to before me this 3d day of February, 1877.

[SEAL.] JAMES H. GILBERT,

U. S. Commissioner, South. Dist. of N. Y.

451 *Stipulation.* (*Filed June* 9, 1877.)

United States Circuit Court, Rhode Island District. In Equity.

WILLIAM S. HOYT *vs.* AMASA SPRAGUE *et al.*

CHARLES G. FRANCKLYN *vs.* Same.

It is stipulated and admitted on behalf of the respondents in the above-entitled cases that the petition and resolutions thereon, marked Exhibits A & B, in the respective bills of complaint, was presented

in the General Assembly, and, in the regular order of proceedings, went through the course indicated by the endorsements thereon printed with the exhibits.

That the referees under the agreement, Exhibit C, made the reports, Exhibits D & E, as printed in the exhibits preceding the signatures of the referees.

That the notice, Exhibit H, is a copy of a notice published in the Manufacturers' and Farmers' Journal, July 20th, July 27, and August 3rd, 1865, and is the notice to which reference is made in Exhibit G.

That the conveyance, Exhibit K, was executed by the parties, as shown by the exhibit.

That Fanny Sprague has never rendered any account as administratrix to the court of probate.

452 (Signed) BENJ. F. THURSTON,
JAMES TILLINGHAST,
J. A. GARDINER,
For Defendants.

453 *Deposition of William S. Hoyt.* (*Filed February* 1, 1882.)

WILLIAM S. HOYT, being duly sworn, deposes and says:

(Examined by Mr. STILLMAN:)

Question. Where do you reside?

Answer. At New Rochelle, in the State of New York.

Question. You are the son of Edwin Hoyt, deceased, and a brother of Edwin Hoyt, who is complainant in the above-entitled action?

Answer. I am.

Question. You are how many years his senior?

Answer. Two and a half years.

Question. What relation do you sustain to him besides that of brother?

Answer. I am, with Charles G. Francklyn, committee of his person and estate.

Question. Under what authority?

Answer. Under the authority of the supreme court of the State of New York.

Question. Have you in your possession and will you now produce the exemplified record of the proceedings which resulted in your appointment as such committee?

Answer. I have, and I now produce it. (Record produced and marked Ex. A., J. H. G., U. S. C., Jan. 27, 1882.)

Question. As a matter of personal knowledge, what was, at the time of the commencement of this action, the condition of the mind of Edwin Hoyt; how long had such condition existed, and what is his condition now?

Answer. He has been of unsound mind from his earliest childhood, and has never been capable of transacting any busi-
454 ness or of taking care of himself in any way whatever. He has always had a woman to take charge and care of him.

Question. What do you mean by having a woman to take charge of him?

Answer. To take charge of him in every way. She takes charge of his money matters, buys his clothes, and exercises a general supervision over him as you would over a child. She does nothing but attend to him. He never went to school, and has never received any instruction except from this woman. He can write a letter such as you would expect from a child, and he can read fairly well. His chief occupation is reading periodicals. He has a sort of mania for them, and especially for railroad guides, taking very great interest in the time of the departure and arrival of trains throughout different sections of the country where he has never been and will never have occasion to go. He spends most all his pocket money for periodicals. He is still under the charge of the same woman who has always had charge of him, and his condition is now as it has been since his birth, except as to the acquirements that I have already mentioned.

WM. S. HOYT.

Taken, subscribed, and sworn to before me this 27th day of January, 1882.

JAMES H. GILBERT,
U. S. Commissioner South. District of New York.

455 EXHIBIT A. January 27, 1882. J. H. G., U. S. Commissioner.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come [SEAL.] or may concern, Greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York and clerk of the supreme court of said State for said county, do find a certain petition of Edwin Hoyt, dated Jan. 28, 1874; affidavit of Jarred Linsley, verified Jan. 30, 1874, and order of court for commission, dated Jan. 31st, 1874; also commission, precept, inquisition, petition of William S. Hoyt *et al.*, dated March 28, 1874, and order of court, dated April 2d, 1874, there remaining, in the words and figures following, to wit:

At a special term of the supreme court held at the court-house in the city of New York on the 31st day of January, 1874.

Present: The Honorable Charles Donahue, justice.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

On reading and filing the petition of Edwin Hoyt, dated January 28th, 1874, and the affidavit of Jarred Linsley annexed to the said petition, and on motion of Messrs. Butler, Stillman, and Hubbard, of counsel for the petitioner, it is—

456 Ordered, That a commission in the nature of a writ *de lunatico inquirendo* issue out of and under the seal of this court

in the usual form, directed to James W. Ranney, counsellor-at-law; Lyman W. Bates, medical doctor; Cornelius F. Timpson, banker, all of the city and county of New York, to enquire, by a jury of the said county and of the neighborhood where the said Edwin Hoyt, junior, resides, of the unsoundness of mind of the said Edwin Hoyt, junior, and that the sheriff of said county be instructed in the said commission to summon such jury.

And it is further ordered that the said commission be executed at, or in some convenient place near, the residence of said Edwin Hoyt, junior, and that previous notice of the time and place of such execution be given to the said Edwin Hoyt, junior, and to the person or persons having the care of him.

And it is further ordered that upon the execution of the said commission the said person or persons having the care or custody of the said Edwin Hoyt, junior, produce him before the said commissioners and the jury to be inspected and examined by them whenever required to do so by such commissioners.

A copy. WM. WALSH, *Clerk.*

(Endorsed: Filed Feb'y 2, 1874.)

457 Supreme Court.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

To the supreme court of the State of New York:

The petition of Edwin Hoyt, of the city of New York, respectfully shows:

That Edwin Hoyt, junior, a son of your petitioner, who resides in the city and county of New York, and who is of the age of twenty-four years, is now, and has been from his infancy, deficient in reason and understanding, having never had sufficient mental capacity to conduct his own affairs and have charge of the same.

That the character of such incapacity and the extent thereof will more fully appear by the affidavit of Jarred Linsly, M. D., who has for many years been the family physician of your petitioner, and who is acquainted with the facts and circumstances relating to such incapacity.

Your petitioner further shows that the said Edwin Hoyt, junior, is the owner of property, consisting mainly of shares of stock in certain corporations, which have come to him by inheritance from his mother.

Your petitioner therefore prays that a commission in the nature of a writ *de lunatico inquirendo* may issue out of and under the seal of this honorable court to enquire of the unsoundness of mind of the said Edwin Hoyt, junior, and to be directed to such persons as to this court may seem proper.

And your petitioner will ever pray.

Dated New York, January 28, 1874.

EDWIN HOYT.

BUTLER, STILLMAN & HUBBARD,
Attorneys for Petitioner.

458 CITY AND COUNTY OF NEW YORK, *ss:*

On the 28th day of January, 1874, before me personally appeared the above-named Edwin Hoyt, and made oath that he has read the above petition subscribed by him and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on information and belief, and that as to those matters he believes it to be true.

EDWIN HOYT.

Sworn to before me this 28th day of January, 1874.

JAMES H. GILBERT,
Notary Public, Kings Co., N. Y.

CITY AND COUNTY OF NEW YORK, *ss:*

Supreme Court.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

Jarred Linsly, being duly sworn, says that he is, and for the last forty years has been, a practicing physician, residing in the city of New York.

That he has attended the family of Edwin Hoyt, the petitioner in this proceeding, for over twenty years last past.

That he is well acquainted with Edwin Hoyt, junior, above named, and that he has attended him professionally from time to time during all his lifetime, and has had frequent opportunities of seeing him and becoming acquainted with his condition, mentally and physically.

459 Deponent further says that the said Edwin Hoyt, junior, in the opinion of deponent, is of unsound mind and understanding and unfit for the government of himself or the management of his property.

That the grounds of deponent's opinion and belief are as follows:

That from his birth the said Edwin Hoyt, junior, has been of weak mind, requiring constant care and supervision, and that by reason of such weakness of intellect and his physical debility he has been unable to engage in any profession or business whatever, or to exercise any supervision or care over his property.

JARRED LINSLY, M. D.

Sworn to before me this 30th day of January, 1874.

WM. H. POPE,
Notary Public for Kings County, N. Y.

N. Y. Supreme Court.

[L. S.] In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

The people of the State of New York to James W. Ranney, M. D.; Lyman W. Bates, counsellor-at-law, and Cornelius F. Timpson, banker, Greeting:

Know ye that we have assigned to you, or any two of you, to en-

quire by the oaths of good and lawful men of the city and county of New York, by whom the truth of the matter may be the better known, whether Edwin Hoyt, junior, of said city and county of New
460 York, is a person of unsound mind, so that he is not sufficient for the government of himself or the management of his lands and tenements, goods, and chattels; and if so, from what time, after what manner, and how, and if the said Edwin Hoyt, junior, being in that condition, has alienated any lands and tenements or not; and, if so, what lands and tenements, to what person or persons, when, where, after what manner, and how; and what lands and tenements as yet remain to him, and of what value are the lands and tenements by him alienated, if any, as well as those by him retained, if any, and how much the issues and profits thereof are worth by the year, and what is the value of his goods, chattels, and personal estate; and who are the nearest heirs of the said Edwin Hoyt, junior, who will be entitled to his estate in case of his death, and of what age.

And therefore we command you, or any two of you, that at a certain day and place, or at certain days and places, which you for that purpose shall appoint, you diligently make inquisition in the premises; and that you cause reasonable notice of the time and place by you, appointed for that purpose, to be given to the said Edwin Hoyt, junior; and that you send the inquisition which you shall thereupon make under your seals or the seals of any two of you, and the seals of those persons by whom it shall be made distinctly and plainly, and without delay, to our supreme court, together with this writ.

And by the tenor of these presents we command the sheriff of the city and county of New York that at a certain day and place, or at certain days and places, which you shall make known to him, he cause to come before you, or any two of you, so many and such good and lawful men of his bailiwick as you shall direct, by whom the truth of the matter aforesaid may be the better enquired of.

Witness the Honorable A. R. Lawrence, one of the justices
461 of said court, at the court-house in the city of New York, the second day of February, A. D. 1874.

WM. WALSH, *Clk.*

BUTLER, STILLMAN & HUBBARD, *Attorneys.*

To the sheriff of the city and county of New York:

By virtue of a commission in the matter of a writ *de lunatico inquirendo*, issued out of and under the seal of the supreme court of the State of New York, bearing date the second day of February, A. D. 1874, to us whose names are subscribed hereto, directed to enquire of Edwin Hoyt, junior, of the city of New York, *to* be a person of unsound mind or not.

These are therefore to require of you to cause to come and appear before us twenty-four honest and lawful men of the city and county aforesaid, and of the neighborhood where said Edwin Hoyt, junior, resides, on the 27th day of March next, at four o'clock in the afternoon of that day, at the court-house in the city of New York, then and there, upon their oaths, to enquire of the unsoundness of mind

of the said Edwin Hoyt, junior, and of all such matters and things as shall be given them in charge by virtue of said commission.

Hereof fail not at your peril.

Given under our hands and seals this 23d day of March, in the year of our Lord one thousand eight hundred and seventy-four.

LYMAN W. BATES, [L. S.]
C. F. TIMPSON, [L. S.]
Commissioners.

Panel of jurors summoned by me under and pursuant to the foregoing precept:

462 A. H. Cardoza, F. M. Harris, Jos. Struthers, Chas. Place, I. Seaver Page, G. W. Deboise, T. Chatterton, A. D. Thompson, S. I. Harriott, W. Nathan, W. P. Brown, M. L. Crowell, J. L. Crowell, F. H. Florance, J. A. Riston, D. Underhill, W. A. Camp, B. C. Paddock, J. Carle, Jr., E. Firth, H. Armstrong, J. M. River, L. R. Fitzgerald, R. G. Rolston.

WM. C. CONNER, *Sheriff.*

Inquisition.

N. Y. Supreme Court.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

An inquisition taken at the court-house, in the city and county of New York, on the 27th day of March, in the year one thousand eight hundred and seventy-four, before Lyman W. Bates, Cornelius F. Timpson, and James W. Ranney, commissioners appointed by virtue of a commission in the nature of a writ *de lunatico inquirendo*, issued out of and under the seal of the supreme court of the State of New York, dated on the second day of February, 1874, directed to the said commissioners to inquire, among other things, of the unsoundness of mind of Edwin Hoyt, junior, upon the

463 oaths of A. H. Cardoza, F. M. Harris, Jos. Strunthers, Chas. Place, F. Seaver Page, G. W. Deboise, T. Chatterton, A. D. Thompson, S. J. Harriott, W. Nathan, W. P. Brown, M. L. Crowell, J. L. Castory, F. H. Florence, J. A. Riston, D. Underhill, good and lawful men of the said county, who, being duly sworn and charged upon their oaths, say that the said Edwin Hoyt, junior, at the time of taking of this inquisition is a person of unsound mind, so that he is incapable of the government of himself or the management of his estate, and that he has been in the same state of unsoundness of mind since his birth, but what occasioned such unsoundness of mind the jurors aforesaid have no information and know not.

And the jurors aforesaid, upon their oaths aforesaid, further say that the said Edwin Hoyt, junior, is not and never has been possessed of any real estate.

And the jurors aforesaid, upon their oaths, further say that the following goods and chattels yet remain to the said Edwin Hoyt, junior, to wit, from one hundred to two hundred thousand dollars in the stock of the A. & W. Sprague Manuf'g Co.

And the jurors aforesaid, upon their oaths aforesaid, do further say that Edwin Hoyt is the father of said Edwin Hoyt, junior, and will be entitled to his property in case of his death; that the said Edwin Hoyt, Jr., resides with the said Edwin Hoyt within the city and county of New York, and is twenty four years of age.

In witness whereof the said commissioners and the said jurors as well have hereunto set their hands and seals the day and year first above written.

LYMAN W. BATES, [L. S.]
C. F. TIMPSON, [L. S.]
JAMES M. RANNEY, M. D., [L. S.]
Commissioners.

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A. H. CARDOZA, [L. S.]
F. M. HARRIS, [L. S.]
JOS. STRUTHERS, [L. S.]
CHAS. PLACE, [L. S.]
J. SEAVER PAGE, [L. S.]
GEORGE W. DEBOISE, [L. S.]
THOS. CHATTERTON, [L. S.]
A. D. THOMPSON, [L. S.]
S. J. HARRIOTT, [L. S.]
JAS. D. NATHAN, [L. S.]
W. P BROWN, [L. S.]
MARTIN G. CROWELL, [L. S.]
J. L. CASTROY, [L. S.]
F. H. FLORENCE, [L. S.]
JOHN A. RISTON, [L. S.]
D. UNDERHILL, [L. S.]
Jurors.

At a special term of the supreme court of the State of New York, held at the court in the city of New York on the 2d day of April, 1874.

Present: The Hon. Charles Donahue, justice.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

On reading and filing the inquisition herein taken under a commission issued out of and under the seal of this court, from which it appears that the jury have found the said Edwin Hoyt, junior, is a person of unsound mind, so that he is incapable of the government of himself or the management of his estate, and from which it also appears that the said Edwin Hoyt, junior, is possessed of certain property in the said inquisition described: Now, on motion of Messrs. Butler, Stillman and Hubbard, attorneys for Edwin Hoyt, the father of said Edwin Hoyt, junior, no one opposing, it is

465 ordered that the finding of the jury upon the execution of the said commission as set forth in said inquisition be, and the same hereby is, confirmed.

And on reading and filing the petition of William S. Hoyt, brother

of said Edwin Hoyt, junior, and Charles G. Francklyn, his brother-in-law, dated the 28th day of March, 1874, praying for the appointment of a committee of the person and estate of said Edwin Hoyt, junior, and the consent of Edwin Hoyt, the father of said Hoyt, junior, that said William S. Hoyt and Charles G. Francklyn be appointed such committee: Now, on like motion, it is ordered that said William S. Hoyt and Charles G. Francklyn be, and they hereby are, appointed the committee of the person and estate of the said Edwin Hoyt, junior, upon their filing with the clerk of this court a bond with two sufficient sureties, to be approved by a justice of this court, in the penalty of ten thousand dollars, and conditioned for the faithful performance of their trust as such committee, according to the statute and rules and practice of the court, and to account when ever required in conformity with such rules and practice.

N. Y. Supreme Court.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

To the supreme court:

The petition of William S. Hoyt and Charles G. Francklyn, both of the city and county of New York, respectfully shows as follows, viz.:

That the commission heretofore issued out of this court, in
466 pursuance of an order made on the 31st day of January, 1874, directed to Lyman W. Bates, James W. Ranney, and Cornelius F. Timpson, to enquire of the unsoundness of mind of Edwin Hoyt, junior, of the city and county of New York aforesaid, who is the brother of your petitioner Hoyt and the brother-in-law of your petitioner Francklyn, has been duly executed and returned by the commissioners and filed in the office of the clerk of this court.

That from the inquisition annexed to the said commission and returned herewith it appears that the jury have found that the said Edwin Hoyt, junior, is a person of unsound mind, so that he is incapable of the government of himself or the management of his lands, goods, and chattels, as by reference to said inquisition will more fully appear.

Your petitioners therefore pray that they may be appointed the committee of the person and estate of the said Edwin Hoyt, junior, upon giving security for the faithful performance of their trust as such committee, in accordance to the statute and in conformity with the rules and practice of this honorable court, and for such other or further order as to this court may seem proper.

And your petitioners will ever pray.

Dated New York, March 28th, 1874.

WILLIAM S. HOYT.
CHAS. G. FRANCKLYN.

City and County of New York, ss:

William S. Hoyt and Charles G. Francklyn, being duly sworn, depose and say, and each for himself says, that he has read the

foregoing petition by him subscribed and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

WILLIAM S. HOYT.
CHAS. G. FRANCKLYN.

467 Sworn to before me this 28th day of March, 1874, by William S. Hoyt.

JAMES GOUDGE,
Notary Public, Kings County, N. Y.

Sworn to before me this 2d day of April, 1874, by Chas. G. Francklyn.

JAMES H. GILBERT,
Notary Public, Kings Co., N. Y.

N. Y. Supreme Court.

In the Matter of EDWIN HOYT, Junior, a person of unsound mind.

I, Edwin Hoyt, father of Edwin Hoyt, junior, above named, do hereby consent that William S. Hoyt and Charles G. Francklyn, both of the city and county of New York, be appointed committee of the person and estate of said Edwin Hoyt, junior, and I do hereby request the said court to appoint said William S. Hoyt and Charles G. Francklyn as such committee.

Dated New York, March 28th, 1874.

EDWIN HOYT.

Signed in presence of—
JAMES H. GILBERT.

City and County of New York, ss:

I hereby certify that on this 28th day of March, A. D. 1874, before me personally appeared Edwin Hoyt, to me personally
468 known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed the same.

JAMES H. GILBERT,
Notary Public, Kings Co., N. Y.

All which we have caused by these presents to be exemplified and the seal of our said supreme court to be hereunto affixed.

Witness Hon. Charles Donohue, justice, at the city of New York, the 27th day of January, in the year of our Lord one thousand eight hundred and eighty-two, [and] of our Independence the one hundred and sixth.

WM. A. BUTLER, *Clerk.*

I, Charles Donohue, presiding justice of the supreme court of the State of New York for the city and county of New York, do hereby certify that William A. Butler, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

C. DONOHUE.

Dated New York, January 27th, 1882.

STATE OF NEW YORK, }
City and County of New York, } ss:

I, William A. Butler, clerk of the supreme court of said State in and for the city and county of New York, do hereby certify
469 that Charles Donohue, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court this 27th day of January, 1882.

[SEAL.] WM. A. BUTLER, *Clerk.*

470 *Final Decree. Filed Feb'ry 24th*, 1883.

The above cause came on to be heard at the November term, 1882, of said court upon bill, answer, and proofs, and was argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed—

That the said bill be dismissed out of this court, and that the defendants have and recover of the said Charles G. Francklyn and William S. Hoyt, next friends of said complainant, their costs of this court, to be taxed by the clerk and to be paid to their solicitors of record in said cause.

By the court: HENRY PITMAN, *Clerk.*

From which decree the complainants, on the same day, in open court, claimed an appeal to the Supreme Court of the United States.

Appeal allowed when bond is filed.

Attest: HENRY PITMAN, *Clerk.*

471 *Bond on Appeal. Filed Sept. 27th, 1883.*

Circuit Court of the United States, District of Rhode Island. In Equity.

EDWIN HOYT, a citizen of the State of New York, and a person of unsound mind, by Charles G. Francklyn and William S. Hoyt, both of the city of New York (the said Chas. G. Francklyn, the husband of the sister of the said Edwin Hoyt, being a British subject, residing in said State of New York, and the said William S. Hoyt, the brother of said Edwin Hoyt, being a citizen of said State of New York), the next friends of said Edwin Hoyt, and who were duly appointed by the supreme court of the State of New York, as hereinafter set forth, the committee of the person and estate of the said Edwin Hoyt,

against

Amasa Sprague; William Sprague, individually; Fanny Sprague, individually and as administratrix of the goods, chattels, and credits which were of Amasa Sprague, deceased; Mary Sprague, individually and as administratrix of the goods, chattels, and credits which were of William Sprague, deceased; The A. & W. Sprague Manufacturing Company, and Zechariah Chafee, as trustee and assignee under certain indentures or deeds of trust
472 made by the A. & W. Sprague Manufacturing Company; Amasa Sprague, William Sprague, Fanny Sprague, and Mary Sprague, to him, the said Chafee—all of whom are citizens of the State of Rhode Island.

Know all men by these presents that we, Charles G. Francklyn and William S. Hoyt, as principals, and Walter H. Barney and John F. Lonsdale, of the city, county, and State of Rhode Island, as sureties, are held and firmly bound unto the defendants above-named in the sum of two hundred and fifty dollars, to be paid to them, their executors, administrators, or legal representatives, to which payment, well and truly to be made, we bind ourselves, and each of us jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this 27th day of September, A. D. 1883.

Whereas the above-named Chas. G. Francklyn and William S. Hoyt, committee of the person and estate of the said Edwin Hoyt, have taken an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled action:

Now, therefore, the condition of this obligation is such that
473 if the above-named Charles G. Francklyn and William S. Hoyt, committee, &c., shall prosecute their said appeal to effect and answer all costs and damages if they shall fail to make

their plea good, then this obligation to be void; otherwise to remain in full force and virtue.

CHAS. G. FRANCKLYN. [SEAL.]
W. S. HOYT. [SEAL.]
WALTER H. BARNEY. [SEAL.]
JOHN F. LONSDALE. [SEAL.]

Witnesses as to Chas. G. Francklyn & Wm. S. Hoyt:
EDWARD J. ORISN.
B. F. PABODEE to W. H. B. & J. F. L.

UNITED STATES OF AMERICA, *Southern District of New York:*

On this 12th day of September, 1883, before me personally came Chas. G. Francklyn, to me known, and known to me to be one of the parties who executed the foregoing bond, and acknowledged that he executed the same for the uses and purposes therein mentioned.

[L. S.] EDWIN L. ———,
U. S. Commissioner for the Southern District of New York.

STATE OF NEW YORK, }
City & County of New York, } *ss:*

On this twenty-second day of September, A. D. 1883, be-
474 fore me personally appeared William Hoyt, to me personally known to be the same person described in and who executed the within instrument, and he acknowledged to me that he executed the same for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year last aforesaid.

[L. S.] EDWIN F. CORRY,
Notary Public, County & State of New York.

Bond approved.

LE BARON B. COLT,
U. S. Judge.

475 UNITED STATES OF AMERICA, }
District of Rhode Island, } *ss:*

CLERK'S OFFICE U. S. CIRCUIT COURT,
AT PROVIDENCE, *September* 27, 1883.

I, Henry Pitman, clerk of the circuit court of the United States for the first circuit and district of Rhode Island, do hereby certify that the foregoing four hundred and seventy-four printed and written pages contain a true copy of the record of Charles G. Francklyn and William S. Hoyt, committee, etc., Amasa Sprague, *et al.*, and of all the proceedings therein.

In testimony whereof I have hereunto set the seal of said court and my hand on the day and year above written.

[Seal of Circuit Court, Rhode Island.]

HENRY PITMAN, *Clerk.*

Endorsed on cover: R. Island C. C. U. S. No. 319. Charles G. Francklyn & Wm. S. Hoyt, committee of the person and estate of Edwin Hoyt, appellants, *vs.* Amasa Sprague, William Sprague, individually; Fanny Sprague, individually and as adm'x of Amasa Sprague, dec'd; Mary Sprague, individually and as adm'x of Wm. Sprague, dec'd; The A. & W. Sprague Manufacturing Co., and Zachariah Chafee, trustee, &c. Filed 1st October, 1883.

121-215

FILED.
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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 75.

CHARLES G. FRANCKLYN and WILLIAM S. HOYT, Committee of the Person and Estate of Edwin Hoyt, Jr.,

Appellants,

vs.

AMASA SPRAGUE, WILLIAM SPRAGUE and others,

Appellees.

BRIEF FOR APPELLANTS.

BUTLER, STILLMAN & HUBBARD,

Solicitors for Complainants.

WILLIAM ALLEN BUTLER,
JAMES McKEEN,

Of Counsel.

BURGOYNE'S "Quick" Print, 146-150 Centre St., N. Y.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1885. No. 75.

CHARLES G. FRANCKLYN and WILLIAM S. HOYT, Committee of the person and estate of Edwin Hoyt, Jr.,
Appellants,

AGAINST

AMASA SPRAGUE, WILLIAM SPRAGUE and others,
Appellees.

BRIEF FOR APPELLANTS.

Statement of the Case.

This cause comes before this Court upon an appeal duly taken from a final decree of the Circuit Court of the United States for the District of Rhode Island, entered February 24, 1883, dismissing the bill of the complainants below who are the appellants here.

Decree, Record p. 284.
Appeal allowed, Id.

The bill of complaint was filed March, 1878, by Edwin Hoyt, Jr., a citizen of the State of New York, by Charles G. Francklyn and William S. Hoyt, as the next friends and committee of the person and estate of Edwin Hoyt, Jr., a person of unsound mind, resident in

the City of New York, where his Committee appointed by the Supreme Court of New York, after the finding of a commission in lunacy, also resided. The parties defendant were Amasa Sprague and William Sprague, individually ; Fanny Sprague, individually and as administratrix of Amasa Sprague, deceased; Mary Sprague, individually and as administratrix of William Sprague, deceased ; The A. & W. Sprague Manufacturing Company, and Zechariah Chafee, Trustee, all citizens of Rhode Island.

The purpose of the bill was to charge the estate and assets of the A. & W. Sprague Manufacturing Company in the hands of the defendant Chafee, their voluntary assignee, with a lien and trust in favor of the Committee's ward as one of the children of Susan Hoyt and, as such, one of the grandchildren of William Sprague, senior, to the extent of one twenty-fourth part of the assigned property, that being the interest of such ward in the property and assets of the former firm of A. & W. Sprague which were transferred to the corporation in 1865, while their ward was an infant, under authority of a resolution of the State of Rhode Island, and pursuant to an agreement and appraisement between the parties interested.

The bill was filed before the decision of this Court in the case of *Hoyt vs. Sprague*, at the October Term, 1880, reported in 103 U. S., 613, in which William S. Hoyt, another grandchild of William Sprague, being *sui juris*, and under no disability, filed his bill against the same parties, seeking like relief, and in which a decree of the U. S. Circuit Court for the Rhode Island District, dismissing such bill, was affirmed by this Court.

On the present appeal no question is raised which was determined by this Court in the case of *Hoyt vs. Sprague*, above referred to.

The decision there was final as to the validity of the resolution of the State of Rhode Island, which authorized Mary Sprague as guardian of the Hoyt children, to convey their interest in the A. & W. Sprague property to the A. & W. Sprague Manufacturing Company, and as to the validity of the agreement, appraisal and conveyances which were attacked by the complainant in that suit.

On the appeal now before the Court the new question, which the former decision did not touch, is :

Whether in respect to a certain sum found due by the appraisers under the agreement to Mary Sprague, guardian of the heirs of Susan Hoyt from the firm of A. & W. Sprague, amounting on March 31, 1865, to $188,333.33, and which was never invested in the capital stock of the A. & W. Sprague Manufacturing Company, a lien and charge attaches to the property in the hands of Chafee, the voluntary assignee, to the extent of the one-fourth share of Edwin Hoyt, Jr., one of such heirs, being $47,083.33, it appearing in this case:

1st. That such sum was ascertained to be a part of the interest of the said Edwin Hoyt, Jr., in the property of the said firm of A. & W. Sprague, March 31, 1865.

2d. That such sum was never invested, pursuant to the resolution of the State of Rhode Island, by Mary Sprague as guardian, in stock of the A. & W. Sprague Manufacturing Company.

3d. That such sum was not provided for in any way by the surviving partners of the firm of A. & W. Sprague, or converted into stock of the A. & W. Sprague Company by Mary Sprague, as administratrix of William Sprague.

4th. That said Edwin Hoyt, Jr., never, in any way, received any part of such sum, principal and interest, either by payment to his guardian or otherwise.

5th. That said Edwin Hoyt, Jr., was never *sui juris*, or competent to act in his own behalf, or to acquiesce in anything done whereof complaint is now made in his behalf.

6th. That the so-called assignment made to the defendant Chafee in evidence in the cause, but not in evidence in the former case of *Hoyt vs. Sprague*, is void as against non-assenting creditors, and has been so judicially declared.

The learned Circuit Judge did not, by any opinion in the case, pass upon this question, and the errors which we respectfully assign on the present appeal are as follows:

Assignment of Errors

1. The Circuit Court erred in dismissing the bill, inasmuch as it appeared on the pleadings and proofs that in respect to the one-fourth part of the sum of $188,333.33 found due by the appraisers from the firm of A. & W. Sprague to the heirs of Susan Hoyt,

such one-fourth being the interest of Edwin Hoyt, Jr., one of such heirs therein, the same was never invested by the guardian in the stock of the A. & W. Sprague Manufacturing Company, but remained in the property of said firm, and was not drawn out, nor was any part thereof, or any interest thereon, ever paid to or for or on account of said Edwin Hoyt, Jr., and to the extent of such interest the property of A. & W. Sprague remained charged with a lien and trust in favor of said Edwin Hoyt, Jr.

2. The Circuit Court erred in dismissing the bill, because it appeared that the assignment by the A. & W. Sprague Manufacturing Company was on its face void as against the complainants.

3. The Circuit Court erred in dismissing the bill, because it appeared that the said Edwin Hoyt, Jr., was never capable of assenting to or acquiescing in any act or thing in the premises in respect whereof assent or acquiescence could be claimed of a person *sui juris* and under no disability.

THE LEADING FACTS RELATING TO THE QUESTION NOW PRESENTED ARE AS FOLLOWS :

Amasa and William Sprague, brothers, carried on the manufacturing business in Rhode Island until 1843, when Amasa died, intestate, leaving a widow, Fanny Sprague, and four children, two sons and two daughters. The widow took out letters of administration on his estate. William, the surviving partner, continued the business under the same firm name for the benefit of himself and his brother's family until October 19, 1856, when he died, intestate, leaving a widow, Mary Sprague, a son, Byron Sprague, and four infant grandchildren, who were the children of a deceased daughter, Susan and her husband Edwin Hoyt, of New York.

Shortly before his death William Sprague took into partnership with him his son Byron and his two nephews, Amasa and William, who, after William Sprague senior's, death, continued the business under the same firm name.

After the death of William Sprague the business was carried on for the benefit of the entire Sprague family in Rhode Island. The widow of William Sprague was administratrix of his estate. She allowed the entire interest of her intestate to remain in the business. Large purchases of real estate in Rhode Island and other States were made and mills erected.

In 1862 Byron Sprague sold out his interest to Amasa and William Sprague.

On the death of his grandfather William Sprague, Senior, 1856, Edwin Hoyt, Jr., as one of the four children of Susan Sprague, wife of Edwin Hoyt, became entitled to his share (one equal fourth part) in his mother's estate.

That estate consisted of her equal share of the property of her father, William Sprague, Senior, and this was wholly in the possession of the surviving partners of the firm of A. & W. Sprague, which had been dissolved by his death.

Edwin Hoyt, Jr., being an infant and *non compos mentis*, could do no act or thing personally in reference to his share of his mother's estate, either before or after he became twenty-one years of age.

Before he attained fourteen years of age, and on the petition of his father and his maternal uncle Byron Sprague (*Rec.*, *p.* 124), his grandmother Mary Sprague was appointed in Rhode Island the guardian of his estate and estates, both real and personal, February 9, 1857 (*Id.*, *p.* 126).

In March, 1863, Mary Sprague, as such guardian, petitioned the General Assembly of Rhode Island for authority to convey the interest of her wards, the children of Susan Hoyt, in all the property held, owned and managed by the firm of A. & W. Sprague to a corporation to be formed. By resolution, the General Assembly granted the prayer of the petition, ond authorized her to make such conveyance.

Exhibits "A" and "B," Rec., pp. 21–22.

On April 1, 1865, Mary Sprague, as such guardian, entered into an agreement with all the other parties interested in the property held and managed by the firm of A. & W. Sprague (exclusive of the Quidnick property), and which included the interest of her ward, Edwin Hoyt, Jr., for an ascertainment, by referees, of the value of the interest of each party, and in every capacity, for the purpose of organizing a corporation upon such property as capital; all the parties to receive in stock of the corporation the value of their interests respectively, as ascertained upon making conveyance of such interests to the corporation.

Agreement, Exhibit C, Rec., pp. 23, 24, 25.

The Referees reported the net value of the entire property to be *(Rec., p. 30)*	$3, 860,084.90
They reported due to Mary Sprague, as administratrix of her deceased husband, for a dividend declared in his lifetime *(Id., p. 31)*	$164,250 26
The aggregate of these sums	$4,025,235 16

they reported as the sum at which the property should be capitalized (*Rec., p.* 33).

The Referees also reported the interests of the respective parties in the capital of the corporation to be formed to be as follows :

Mary Sprague's portion, per report	$624,984 69
Fanny Sprague's " " "	625,511 69
Amasa Sprague's " " "	978,867 42
Mary Sprague, gaurdian	652,753 68
	$3,860,984 90
Add administratrix dividend	164,250 20
	$4,025,235 16

The allotment of the capital stock was as follows (*Rec., p.* 33) :

10,000 shares each of	402\frac{2235}{1000}$	$4,025,235 16

Of which

Mary Sprague	1,366$\frac{3418}{}$	549,984 69
Fanny Sprague	1,553$\frac{9755}{}$	625,511 69
Amasa Sprague	2,524$\frac{9889}{}$	1,016,367 42
William Sprague	2,524$\frac{9889}{}$	1,016,367 42
Mary Sprague, guardian	1,621$\frac{6536}{}$	652,753 68
Mary Sprague, administratrix	408$\frac{0513}{}$	164,250 26
	10,000 shares.	$4,025,235 16

In August 5, 1865, Mary Sprague, as guardian, upon her petition stating that the interest of her wards in the A. & W. Sprague property amounted on March 31, 1865, to $652,753.68, procured an order of the Probate Court of Warwick County, R. I., to convey all their

interest in the property for their proportionate amount of stock as awarded by the Referees (*Exhibit "G," Rec., p.* 40).

On August 9, 1865, Mary Sprague, as guardian united with the other parties in interest, in making conveyance of the entire property to the A. & W. Sprague Manufacturing Company (*Exhibit "K," Rec., p. 43*).

There was, however, an interest of Edwin Hoyt, Jr., in the estate of his grandfather William Sprague, Senior, which was ascertained by the Referees but which was not taken out in any form, or included in the capitalization, or invested by his guardian in stock, or ever received by her or by Mary Sprague as administratrix of William Sprague, and in respect to which his interest remains as it was on March 31, 1865, by reason of the above facts and of his legal disability then and now existing.

It was disclosed before the Referees that during the entire period of eight years five months and twelve days from the death of William Sprague, senior, October 19, 1856, to March 31, 1865, the date of the ascertainment of values, the family expenses of the members of the Sprague families in Rhode Island had been drawn out of the mass of the property in the possession of the surviving partners of the firm of A. & W. Sprague. No accurate accounts of the sums thus drawn out had been kept (*Holmes, Rec., p.* 158—"*The books were kept rather loosely as regards the family. Each one went and got what they wanted and charged it to the whole,*" *Id., p.* 159; *Freize, p.* 260), but the Referees ascertained and reported that they reached a grand total which required a payment to Mary Sprague, guardian of the Hoyt children, to make them whole as respects the amount drawn out by the other parties in interest, of $188,333.33.

As the share of the Hoyt children was one-sixth of the entire property, it follows that what the other parties in interest had taken out in cash during the above-mentioned period of nearly eight years and six months was five-sixths of a sum six times as large as the above-ascertained amount—$188,333.33x6 = $1,129,999.98, of which five-sixth is $941,666.65.

If this sum of $941,666.65 had been replaced by the Rhode Island Spragues, it would have increased the value of the properties to $4,966,901.81 and the several distributive shares in stock would have been relatively increased.

Instead of repaying the sums drawn out, the property was

valued as it stood and as an offset to the $941,666.65 which had been taken out of the common mass by the Rhode Island families, the sum of $188,333.33 was allowed by the Referees as follows: "*Due to Mary Sprague, guardian of heirs of Susan Hoyt, from "firm,* $188,333.33."

This sum was not invested in or represented by stock in the A. & W. Sprague corporations.

It was not paid to the administratrix of William Sprague, or to the guardian of the heirs of Susan Hoyt.

It remained precisely as on March 31, 1865, an ascertained interest in the copartnership property of A. & W. Sprague, represented solely by the figures thus stated by the Referees.

There was no book entry; no account stated; no evidence of debt given; nothing whatever, beyond the above statement by the Referees.

Subsequent acts of the parties were in accordance with their concurrent action in leaving this interest untouched and undisposed of.

Mary Sprague, as guardian of Edwin Hoyt, Jr., filed an inventory of the property of her ward, August 20, 1865.

This was after the appraisal and conveyance by which the estate of her ward (other than the $188,333.33) had been converted into stock of the corporations.

The inventory contained the following statement of "all the per-
" sonal estate of Edwin Hoyt:

" 124 shares National Bank of Commerce, $51	6,324 00
" 1 United States 6 per cent. bond	108 50
" 2 N. Y. Prov. & Boston R. R. bonds, $950	1,900 00
" 439 A. & W. Sprague Mfg. Co. stock, $402	176,707 82
" 122 shares Quidneck Co. stock	18,938 98
" Cash	387 44
	$204,363 74
" Dividend due from A. & W. SPRAGUE, as cash, March " 31, 1865, with interest from that date	47,083 34

(*Rec., pp. 47–48*).

The last sum stated, $47,083.34, is exactly one-fourth of $188,-333.33, and does not include any interest. "With interest" means that it bore interest from March 31, 1865.

On June 25, 1866, Mary Sprague, as guardian of Edwin Hoyt, Jr., filed an account in which she charged herself with the amount of the securities specified in her inventory less $500, for her services from February 9, 1857, the date of her appointment as guardian (*Mary Sprague's answer, Rec., p. 82*), and brought down debit balance of $203,884.52.

As a separate item, not debited, because not in her hands, but stated at the foot of the account, is the following:

" ¼ of $188,333.33, dividend due from A. & W. SPRAGUE, March " 31, 1865, per report of B. F. Thurston and J. A. Gardner, referees." *(Rec., p. 139.)*

Mary Sprague resigned as guardian of Edwin Hoyt, Jr., in August, 1866 *(Rec., p. 143)*, and William Sprague was appointed. He again inventoried this claim " as dividend due from A. & W. " SPRAGUE, as cash, March 31, 1865, $47,083.33 " *(Rec., p. 148)*.

But the sum so specified never came into the hands of William Sprague as guardian, nor did he ever charge himself with it in account, so far as Edwin Hoyt, Jr., was concerned.

The other Hoyt children, as they respectively came of age, received accounts from William Sprague as their guardian, and this sum figured in those accounts; interest was reckoned on it and paid, and inquiry was made by one of them of William Sprague for an explanation of this so-called " Special fund " as it was stated in the account (*Rec., pp. 236, 243; p. 218*).

But as to Edwin Hoyt, Jr., no account was rendered to him; no payments were made to him; nor was he ever communicated with on the subject by any one.

This Court held in *Hoyt vs. Sprague* that Mary Sprague as guardian had full power and authority as to the interest of the several Hoyt children in the property of A. & W. Sprague to invest it in the capital stock of the A. & W. Sprague corporations, and they held further that as to the children of Susan Hoyt, who were then before the Court as complainants, their acquiescence, after they came of age, precluded them from relief, inasmuch as they had sufficient knowledge or means of knowledge, from the regular annual accounts rendered and other sources of information, and therefore came into Court too late (*Opinion, 103 U. S., pp. 636, 637*).

On behalf of Edwin Hoyt, Jr., the present complainant, by his committee, no claim is made as to any portion of his interest in the

property of A. & W. Sprague which was invested by Mary Sprague, his guardian, in the stock of the A. & W. Sprague corporations, but only as to that portion not so invested and which remained in the property of the firm.

He never was *sui juris* and acquiescence cannot be predicated in respect to him. Nor did he ever receive any account, or statement, or any sum whatever from his guardian.

As to the mental incapacity of Edwin Hoyt, Jr., from his birth, the proofs, including the finding of the Commission of Lunacy, are conclusive (*Rec., pp. 275, 281*). The answers of the defendants do not admit the fact as alleged, but deny, it argumentatively, by an averment of a single transaction by which, on December 9, 1873, before the finding of the Commission of Lunacy, he signed a transfer of 122 shares of stock of the Quidnick Company accompanied by a power of attorney of same date to Edwin Hoyt, his father, to transfer the same shares.

No proof in support of this averment was given.

But, had it been proved, the fact would have been irrelevant in the face of the undisputed evidence of mental incapacity.

Aside from the question of mental incapacity the proofs show no accounting rendered or information given from which knowledge or means of knowledge can be presumed.

The assignments from the A. & W. Sprague Manufacturing Company and the Spragues to the defendant Zechariah Chafee in evidence in this cause were not before the Court in the former case.

They are not assignments for the benefit of creditors for the purpose of paying debts, but are instruments contemplating the continuance of the business of the assignors and for the payment only of such creditors as should come in within nine months from the date of the instrument and extend their claims. (*See the assignments of November 1, 1873*, Rec. p. 50; *April 6, 1874, Id.*, pp. 58, 59).

POINTS.

First. The disability of Edwin Hoyt, Jr., being established by the proofs, no acquiescence or laches can be set up as a bar to the relief sought on his behalf in this cause.

He was never *sui juris*.

Apart from the judicial determination of his incompetency, the testimony of William S. Hoyt (*Rec., p.* 275) is uncontradicted. He testifies, from personal knowledge, that Edwin Hoyt, his brother, "has been of unsound mind from his earliest childhood, and has "never been capable of transacting any business or of taking care of "himself in any way whatever. He has always had a woman to "take charge and care of him. He never went to school, and has "always been treated as a child."

No claim is made here by reason of the mental incompetence of Edwin Hoyt, Jr., in respect to any act of Mary Sprague, as administratrix or guardian, which she was empowered by law to do in either capacity. So far as the turning of his estate, other than that interest which was represented by the $47,083.34, into stock of the A. & W. Sprague Manufacturing Company is concerned, no question is made.

What we claim is that upon the undisputed evidence on the present record, Edwin Hoyt, Jr., is not bound by any personal act or omission which could otherwise be predicated or pleaded as to him, and that, being, as this Court said in *Dexter vs. Hall*, 15 Wall., 9, *p.* 21, "confessedly under the protection of courts of law, as well as "courts of equity," whatever equity existed in his favor on March 31, 1865, has not been prejudiced or affected by lapse of time or any other thing imputable to a person of sound mind.

A contract made by Edwin Hoyt, Jr., would, upon the proofs in this case, be void.

Dexter vs. Hall, 15 Wall., 9.
Edwards vs. Davenport, 20 Fed. R., 756.

A fortiori he cannot be held where he never contracted or acted or had any knowledge.

Even had he been under no disability, it is not pretended that any payment was ever made, any account rendered, or any information given him respecting his interest, as one of the children of Susan

Hoyt, in the property of his grandfather, William Sprague, Senior.

So far, therefore, as acquiescence and laches are concerned, this case is unaffected by the former decision of this Court in the case of *Hoyt vs. Sprague.*

This ground of decision is stated by the Court as being "aside "from the legality and binding effect of the proceedings for invest- "ing the minors' interest" (103 U. S., *p.* 636). But, if we correctly apprehend the opinion, the delay and assent proved against the former complainants precluded them from claiming relief as to any part of the transactions sought to be invalidated, on any of the grounds urged in their behalf, independently of the other questions involved, so that if, as to the comparatively insignificant sum which we are now claiming, an equitable ground of relief had appeared upon closer scrutiny as to this special item, the defense of acquiescence and laches would have been an insuperable obstacle to a recovery.

The result is that if, consistently with the principles governing the main points of the case as already determined, there is found to be a particular equity, as now claimed, existing in favor of Edwin Hoyt, Jr., there is nothing to hinder the Court from enforcing such equity according to the prayer of the bill.

Second. The several instruments made by the Sprague Manufacturing Company and others to the defendant Zechariah Chafee, as Trustee, which were not in evidence in the former case, are now before the Court.

They do not constitute Chafee an assignee for the benefit of the creditors, as was necessarily assumed and stated by this Court in its opinion (103 U. S. *pp.*, 614, 623) in the absence of the proof now furnished.

On the contrary, the first deed of November 1, 1873, is a conveyance in trust, not to sell and convert into money and pay creditors, but to carry on the manufacturing business for the "best interest of such creditors as shall assent to the deed" (*Rec., Exhibit O., pp.* 50–58).

The second deed of April 6, 1874 (*Exhibit P.*, p. 58), and the third deed of the same date (*Exhibit Q.*, p. 59) are in aid of the first deed, differing from them only in directing the trustee after paying

the assenting creditors in full, to apply any residue to the payment in full or ratably of all other creditors.

These trust indentures are manifestly fraudulent and void on their face as to non-assenting creditors. Their obvious intention was to hinder and delay the creditors of the A. & W. Sprague Manufacturing Company.

This has been judicially determined in the case of *De Wolf vs. Sprague Mfg. Co.*, 49 Conn., 282.

The same principle on which these deeds were condemned in the case last cited has been upheld and applied in *Gardner vs. Commercial National Bank*, 13 R. I., 155.

Third. Coming to the merits and applying to the facts the principles recognized in the decision of *Hoyt vs. Sprague*, it is established that as to so much of the interest of Edwin Hoyt, Jr., in the estate of his grandfather William Sprague, Sr., as was represented by one-fourth of the $188,333.33, ascertained as an interest of the heirs of Susan Hoyt in the common mass of the copartnership property, it was never invested by his guardian, Mary Sprague, in the stock of the A. & W. Sprague Company under the resolution of the General Assembly of Rhode Island and the order of the Probate Court of Warwick County, and never came into his guardian's hands in any form.

Nor was this one-fourth interest ever taken out of the copartnership property by Mary Sprague, as administratrix of William Sprague, deceased, so as to be the subject of any claim for accounting against her as administratrix, for money received in her capacity of administratrix. Nor was it continued in the business by Mary Sprague, as administratrix of William Sprague, deceased, by conversion into stock of the A. & W. Sprague corporation.

By common consent, in full view of the ascertained fact that, on March 31, 1865, the whole property in the hands of the surviving partners of William Sprague was subject to a charge of $188,333.33 in favor of the Hoyt infants to place them on an equality with the other parties who had drawn out nearly a million dollars, nothing was done in the way of payment, either in stock or in money, nor was security given in any form.

All parties concurred in doing nothing beyond agreeing to the fact as above stated.

The dividend of $164,250.26 declared during William Sprague senior's life, was treated as a cash debt due Mary Sprague as administratrix, and the whole of this dividend, including the distributive share of the Hoyt children therein, was turned into stock.

The $188,333.33 was a prior charge to the $164,250.26.

The last-named sum represented a credit to William Sprague, senior, of an amount which he voluntarily left in the business up to his death, and which his administratrix voluntarily left there after his death, and which was therefore properly included in the property so to be capitalized and represented by stock of the corporation to be formed.

The first-named sum of $188,333.33 stood on an entirely different footing. It was not money which anyone had placed or left in the business. It represented a sum which never had been the subject of action or even of cognizance until the Referees by their report brought the facts to light which established it as a charge on the property. It represented a subsisting cash interest in the entire property, which had been drawn upon by the parties in interest (other than the Hoyt infants) during a period of over eight years reducing it by the sum of $941,666.65. The Hoyt children had drawn nothing. Treating the common fund as a reservoir from which all parties were entitled to draw, it is manifest that what had been taken out by the proprietors of five-sixths of the common fund reduced it in bulk without affecting the proprietary right of the owners of the remaining one-sixth.

That right was therefore superior to every other right, except claims of then existing creditors; and as there was a clear surplus of $3,860,-984.90 over all debts, the right attached to the property and constituted in equity a charge and lien in favor of the Hoyt children for whom nothing had been drawn, as against the other parties in interest who had drawn nearly a million. On March 31, 1885, this charge was ascertained to be $188,333.33, or $47,083.34 for each child.

Fourth. Leaving out of view the other heirs of Susan Hoyt, who, by their acquiescence and *laches* have been held to have lost any rights or equities they might otherwise have had, and dealing solely with the interest of Edwin Hoyt, Jr., the charge and lien

which existed in his favor on March 31, 1865, to the extent of $47,083.34 on the copartnership property of A. & W. Sprague was founded on a clear equity, recognized by this Court in *Hoyt vs. Sprague*, and fully established by authority.

Up to March 31, 1865, all parties, including Mary Sprague, as administratrix of William Sprague, who, as his personal representative, had the power, if she saw fit, unless restrained by her beneficiaries, to allow the estate of her intestate to continue in the business of the partnership, had consented to the continued employment of the entire partnership property by the surviving partners. And as said by this Court in *Hoyt vs. Sprague*, 103 U. S., p. 627 : " It " seems to have been an understood thing between all the parties " from the beginning that without any formal settlement of the " estates of Amasa and William Sprague, Senior, the several bene- " ficiaries entitled to distribution should be and were considered as " interested in the common partnership property in the proportional " amount of their beneficial interest. Mary Sprague, as adminis- " tratrix and as guardian of the Hoyt children, represented her own " share and theirs."

While things were as above described there was a continuing lien in favor of the representative of the deceased partner as to all the firm property which existed at the time of the dissolution worked by his death. And this lien lasted until the share of the deceased partner was *ascertained and provided for by the other partners.*

See the rule stated as " the result of the cases " 103 U. S., *pp.* 624, 625.

Lindley on Partnership, pp. 700-702.

This lien ceased in respect to all interests in the property which, by the joint action of the parties, was turned into stock of the A. & W. Sprague Manufacturing Company. Mary Sprague as administratrix and guardian by uniting in the agreement and conveyance discharged the lien as to the interest so conveyed, and this Court held that inasmuch as she " in her representative capacity ceased to " have such lien," it was extinguished as against creditors (103 U. S., *p.* 628), and also that what she did was acquiesced in by those of her beneficiaries who subsequently became *sui juris.*

But as to the interest of $47,083.84 of Edwin Hoyt, Jr., which, by the deliberate act of all the parties, was not converted into stock, nor assumed as a liability by the A. & W. Sprague Manufac-

turing Company, but about which nothing was done except to describe it in two lines of the Referee's report as "due to Mary "Sprague, guardian of heirs of Susan Hoyt from firm," the lien remained unaffected, certainly as between the parties. And, as the concern was solvent, no question of creditors was then involved.

Fifth. The equitable lien of $47,083.84 existing in favor of Edwin Hoyt, Jr., March 31, 1865, has never been extinguished.

This Court, at p. 629 of the opinion in *Hoyt vs. Sprague*, says "that the cash value of the minors' share of the property on the "31st of March, 1865, as appeared by the appraisement then made "was..... $652,753 68
"Allowance to offset family expenses of the other "parties..... 188,333 33
"Interest in Quidnick property, including E. Hoyt's "curtesy..... 116,112 93
$957,206 94"

and they hold that Mary Sprague, as guardian, was justified by the resolution of the Rhode Island Assembly in conveying these interests to the corporations for capital stock received therefor.

But, as already shown, for the interest represented by the second item in the above statement, $188,333.33, no capital stock was ever received, nor any other consideration.

It was not necessary, however, in the former case, for the Court to make any discrimination as to this item because, as between the complainants then seeking relief and the defendants, the question now raised was not under consideration. The contention of those complainants was that the whole scheme of capitalization was invalid. Its validity cannot now be questioned, and the sole point is whether, as to the uncapitalized interest, the equity of Edwin Hoyt, Jr., existing on March 31, 1865, to the extent of $47,083.84 has ever been extinguished?

We submit that it has not been extinguished, because,

1st. Edwin Hoyt, Jr., having always been incapable of acting, the lien has not been lost by any act or omission on his part.

2d. Mary Sprague, as guardian, having never taken the interest out of the property or converted it into stock of the A. & W. Sprague Manufacturing Company, or other property, has done nothing to affect the lien.

3d. Mary Sprague, as administratrix of William Sprague, having never taken the interest out of the property or converted it into stock of the A. & W. Sprague Manufacturing Company, or other property, has done nothing to affect the lien.

Equity, which gave the lien originally, will preserve it for the benefit of a party under disability, so far as it can be made applicable to specific property and as against parties whose rights ought, in good conscience, to be subordinated to it.

Sixth. Aside from the mere fact that this interest of $47,083.84 was by common consent of the parties left in the mass of the firm property their acts clearly indicate an intention that it should remain a charge thereon. Even if they did not so intend, equity will recognize and uphold the charge in favor of the present complainants.

All parties were acting, as this Court has adjudged, in perfect good faith. They were fully advised as to all their legal rights and relations. The Referees were skilled experts in the law. All knew that the subtraction of over $900,000 from a common property by five classes out of six classes of joint beneficiaries necessitated making good the sixth class in some way when the day of reckoning should come. That day came on March 31, 1865. A money payment to Mary Sprague, either as guardian or as administratrix, liable to account to herself as guardian, would have sufficed. That would have taken out this interest and the property, diminished to the extent of the payment, would then have passed to the corporation and become the basis of new transactions, disencumbered of the charge. No money was paid. Nor was stock created and issued for this interest. Why was stock not issued for the $188,333.33 as well as for the $164,250.26, the amount of the dividend due Mary Sprague as administratrix? And why, further, was the sum of $188,333.33 always stated as due from A. & W. SPRAGUE as cash March 31, 1865, (*Rec., pp.* 48, 49, 139, 148), thus excluding any presumption that it

was among the liabilities of A. & W. Sprague which were assumed by the corporation?

The answer, we submit, must be that as the five classes of beneficiaries who had depleted the property by their drafts did not propose to restore to the common estate that which they had taken away, or to permit the sixth class of beneficiaries to take out their equivalent in cash, they stopped short at the ascertainment of the interest without making any provision for it beyond that which equity might impose. They took it for granted that all would agree and acquiesce, and all did acquiesce except the unfortunate ward of the present complainants.

Whatever right he had on March 31, 1865, was by the deliberate act of all parties left intact, and, therefore, left subject to the rules of law and equity.

Seventh. The A. & W. Sprague property came into the hands of the A. & W. Sprague Manufacturing Company, subject to the above stated charge and lien in favor of Edwin Hoyt, Jr., and in equity it should be preferred to claims of creditors of the corporation, so far as specific property owned by A. & W. Sprague on March 31, 1865, remains. There is such property largely in excess of the claim sought to be enforced here.

If, as to this interest, it were shown that the lien was lost by the acts of the representative of William Sprague the rule as stated and applied by this Court in the former case (103 U. S., at *p.* 629) would apply.

It is there said that "where the representative of a deceased "partner allows the interest of his decedent to be used in the busi- "ness by the surviving partner, and thereby loses his lien upon the "partnership property, he does not thereby become a creditor of the "new firm, and cannot come into concourse with the creditors "thereof; but the property of the firm is first subject to the claims "of such creditors, and after they are satisfied the representatives' "right to have an account against the surviving partner remains as be- "fore."

As to the interests constituting the great bulk of the estate of William Sprague, senior, the administratrix concurred with the other

parties in the plan of converting them into the stock of the corporations, and thus continuing them in the business.

What we claim is that as to the separate, distinct and ascertained interest now sought to be enforced, in equity, no act or thing done by the guardian or by the administratrix brings it within the rule as above stated. On the contrary, the law must presume that there was no intent to allow this interest to become a part of the property to be used by the corporation.

Restitution by the Rhode Island Spragues of what they had taken out of the common stock would have been required in equity, and if there had been firm creditors and what had been taken out could be identified it would have been applicable to pay the creditors of the firm in preference to creditors of the Spragues. The creditors' claim would have followed the property.

Story on Part., Sec. 9.

The $47,083.34 remained a trust fund in the hands of the surviving partners for the benefit of Edwin Hoyt, Jr.

Eighth. If it shall be claimed that the conveyance and transfer *(Exhibit K, Rec.*, p. 43) in which Mary Sprague, as administratrix, united, was absolute and by its terms vested the entire property and assets in the grantee corporation, we answer:

First. That if the equitable lien in favor of Edwin Hoyt, Jr., existed at the time of the conveyance, the property passed subject to it, precisely as if a mortgage had been made, as it properly might have been made, to represent the equity, and the conveyance had then been executed without any mention of it. Such a mortgage if unrecorded would only have been evidence that the conveyance was made in contemplation of the lien which equity impressed, and would have been upheld irrespective of any question under local registry statutes.

Second. The conveyance was intended to vest the title to the property as far as the interests therein of the respective parties were represented by stock of the corporation as allotted by the Referees. As to the interest of $188,333.33 it was not represented by stock; it did not pass by the conveyance.

The only stock received by the administratrix was the precise amount of the unpaid dividend of $164,250.76, and Agreement *(Ex-*

hibit C) clearly shows that she only joined in the conveyance for the purpose of releasing that claim *(Rec., p. 27)*. She got no consideration for anything else, even in stock.

THIRD. The conveyance by the administratrix could not in any event operate to convey a title to the specific real estate.

The real estate was by the acts of the parties dealt with as realty. The deed of Mary Sprague, as guardian, executed pursuant to the power granted by the General Assembly, was necessary to vest the title of her wards in the corporation, and her power was limited to conveyance of such of the estate of her wards as she should receive the equivalent for in stock of the grantee corporation. Nothing passed as respects the $47,083.34 for which she received no stock.

The deed of Mary Sprague as administratrix if effectual at all, only operated to pass the real estate so far as it had been converted into personalty.

This conversion did not extend beyond what was necessary to carry into effect the rule on which equity works a conversion in case of partnership distribution and settlement. Specific real estate not required for any purpose of paying debts or for liquidation does not lose its character and identity so as to destroy a lien which equity creates.

The weight of authority in this country is against the doctrine of absolute conversion and opposed to the rule adopted in England.

Story on Partnership, 7th edition, 1881, Sec. 93; and see the cases cited in note to Sec. 93, pp. 131–152
Shearer vs. Shearer, 98 Mass., 107.

This Court has not held in any reported decision that in a case like the one at bar an out-and-out conversion exists so as to enable the administrator of an intestate to convey a good title to a purchaser. No such doctrine is adopted or announced, or is necessarily implied in the decision of *Hoyt vs. Sprague*, and the grounds of that decision did not require its adoption or announcement.

The rule for which we contend is the settled rule of equity, which, while it gives due effect to the proprietary right of surviving partners for all purposes of partnership settlements, protects the interest of the deceased partner's heirs and next of kin in respect to his share of the partnership estate as it existed at his death, and, after satisfying creditors of the dissolved firm, follows specific property into the hands of the survivors and charges it with the dece-

dent's interest as against them and their creditors in new transactions.

Hooley vs. Gieve, N. Y. Court of Appeals, 9 Abb. N. C., 8, p. 26.
West vs. Skip, 1 Ves., Jr., 239.
Exp. Rowlandson, 2 Ves. & B., 172.
Viner vs. Caddell, 3 Esp., 90.
Stocken vs. Dawson, 9 Beav., 239.
Flockton vs. Bunning, 8 Ch. App., 324 (note).

Where a fund exists and has been ascertained as to value, and is payable out of specific property in the hands of solvent parties to a party entitled to such payment in preference to all other persons, such specific property may be followed into the hands of any person except a *bona fide* purchaser, or a party who has acquired a specific lien by the levy of an execution or attachment.

2 Story's Eq., Sec. 1258.
Perry on Trusts, Sec. 829.
Hill on Trustees, p. 222.
Piatt vs. Oliver, 3 McLean, 27.
Oliver vs. Piatt, 3 How., 333.
National Bk. vs. Ins. Co., 104 U. S., 54.

Ninth. The equity claimed by the complainant is not affected by their right of action against the guardian or administratrix. The remedy in equity is cumulative, and will be enforced independently of any right at law.

State of Maryland vs. Bishop, 24 Maryland R., 310.

Tenth. Neither the A. & W. Sprague Manufacturing Company, nor Chafee, the voluntary assignee of the A. & W. Sprague Manufacturing Company, stand before the Court in this action as *bona fide* purchasers. The corporation took with full notice. As to Chafee, he is not a trustee for creditors generally and cannot claim a priority over the equitable lien of the complainants.

As already shown *(supra, Second Point, p. 12)*, the transfers to Chafee were all parts of a scheme for continuing the business of the A. & W. Sprague Manufacturing Company, for the benefit of assent-

ing creditors of the corporation, and he was not a *bona fide* purchaser within the true meaning of that term.

Eleventh. The equitable lien of the complainants as above claimed should be enforced and the decree of the Circuit Court dismissing the bill should be reversed and the cause remanded for further proceedings for the purpose of enforcing such lien.

BUTLER, STILLMAN & HUBBARD,
Solicitors for Appellants.

WILLIAM ALLEN BUTLER,
JAMES MCKEEN,
Of Counsel.

121-215

BURGOYNE'S "Quick" Print, 146-150 Centre St. N. Y.

Supreme Court of the United States.

CHARLES G. FRANCKLYN *et al.*, Committee,

AGAINST

AMASA SPRAGUE *et al.*

October Term, 1886.

No. 75.

Reply on Behalf of Appellants to Supplemental Brief Filed by Appellees.

I.

It is quite true, as stated by the appellees' counsel, that the particular relief now asked for is an incident to the main purpose of the bill as originally filed, for the reason that this suit was commenced before the decision of this Court in the case of *Hoyt vs. Sprague*, 103 U. S., p. 613. The prayer was general that the whole transaction sought to be impeached might be invalidated without reference to particular details.

But it was expressly charged that the equitable lien on behalf of the Hoyt children was impressed on the entire estate and an accounting was prayed for.

All the parties are before the Court. The specific property in respect to which we ask that the equitable lien in favor of Edwin Hoyt, Jr., may be enforced is in the hands of Chaffee, the voluntary mortgage trustee,

and no amendment of the bill or of the prayer is necessary for the relief now sought.

See allegation of bill, page 14, as to assignment of property to Chaffee, and his refusal to furnish information by which complainants' claim against the property can be ascertained, *Rec.* p. 14. Allegation as to trust following property into hands of Chaffee, *p.* 15, *fol.* 25. Prayer for accounting and payment out of the property in Chaffee's hands, *p.* 17, *fol.* 29.

II.

The deed of Mary Sprague, as guardian, was an act pursuant to the legislative authority granted by the resolution of the Legislature of Rhode Island, which contained a proviso requiring the "investment of the "amount of the full value of the interest of said mi- "nors which she shall then be about to convey in the "capital stock in such corporation or corporations to "which the same shall be conveyed in the names and "for the use and benefit of said minors" (*Rec.*, *pp.* 22–23).

The statutory power must be strictly pursued. This is elementary. The Legislature recognized the fact that the infants' interests were *property situated in Rhode Island. This was the basis of their action.*

As Mary Sprague did *not* "*invest*" the $47,083.33 of Edwin Hoyt, Jr., in the capital stock, and as it never came into her hands, in any shape, but by common consent of all the parties remained uninvested and undisposed of, nothing can be claimed as against Edwin Hoyt, Jr., by reason of her deed, or the resolution.

The sole effect of the conveyance as made by Mary Sprague, guardian, was to vest the property in the corporation, subject to the equity created by law in favor of Edwin Hoyt, Jr., in respect to that portion of his interest which was not taken out of the common property or invested in stock.

The corporation took, subject to this equitable charge.

III.

The $47,083.33 was not a liability of A. & W. Sprague assumed by the grantee corporation.

It was an interest in the property remaining as a charge, as shown by the fact that in the several inventories and accounts of Mary Sprague and William Sprague, as guardians, it was always stated as a claim against the old firm, and not as a liability of the new corporation.

Rec., pp. 47, 82, 139, 148.

IV.

There is no proof in the case of the power of attorney alleged in the answer. If there were, this isolated act, for the benefit of the imbecile infant, to transfer the Quidnick stock to Mr. Francklyn, one of his committee, does not countervail the express evidence in the case as to the fact of Edwin Hoyt, Jr., being *non compos mentis.*

V.

It is undoubtedly true that it was a part of the general scheme that the interests of the several parties should be ascertained, as stated by the appellees' counsel on page 6 of the supplemental brief.

But the Court will note that no attempt was made on the oral argument, nor is any attempt made in the supplemental brief, to explain how it came about that the $47,083.33 we are now claiming was neither converted into stock, nor paid in cash, nor accounted for, except as a remaining and outstanding sum due as cash March 31, 1865, from A. & W. SPRAGUE.

If a single dollar had ever been paid the means of proof are in the possession of the appellees.

The remarks on page 8 of the supplemental brief are wide of the question; they simply suggest conjectures and are a virtual admission that no better theory can be broached in face of the conceded fact that all that was ever done about the $47,083.33 was to ascertain it as a charge on the property and then to convey the property without any discharge.

VI.

It is not necessary to argue that the Sprague corporation was not a *bona fide* purchaser in the sense which we mean—*i. e.*, a purchaser without notice.

The supplemental brief necessarily admits that the entire consideration paid by the corporation for the Hoyt minors share was only $652,753.68, which excludes the $188,333.33.

Every corporator had taken part in the adjustment

which established the right of the Hoyt children to $188,333.33 of the property, in addition to the $652,753.68.

VII.

Giving the fullest effect to the decision in *Austin vs. Sprague*, 14 Rhode Island, 464, the trust deed to Chaffee is only upheld by the Court on the facts as they appeared, and which, as the Court held, rebutted the *prima facie* presumption of fraud as a *mortgage deed*, not as an insolvent's assignment. In fact, the assignments of April 6, 1874 (*Rec.*, pp. 58, 59), were not in question, and the sole instrument passed upon is that set out in the record at pages 50–56, which is sustained solely as a mortgage deed, and therefore is not a conveyance to a *bona fide* purchaser without notice.

The property came to the mortgage trustee, subject to the equity which existed in behalf of Edwin Hoyt, Jr.

VIII.

It is difficult to see how this Court can consider the liability of Edwin Hoyt, Jr., as a stockholder, as suggested at page 12 of the supplemental brief, at this stage of the case. It cannot be set uy Chaffee in this suit. Nor is it pleaded. Nor is there any evidence that there will ever be any such liability; and nothing is shown by way of statute or otherwise to warrant the presumption that it ever existed or ever will arise.

IX.

The appellees by the supplemental brief substantially concede the whole ground of our equity as claimed in our brief.

The existence of the fund of $188,333.33 March 31, 1865, and of Edwin Hoyt, Jr.'s, interest of $47,083.33 therein, and the entire absence of provision for its payment, security or conversion into stock, or of any communication by way of notice, account or otherwise to the *non compos* ward.

The lien given by equity in favor of our client cannot be disputed by any of the original parties in interest. It is firmly established by authority, and has never been questioned by this Court. The equity does not require to be worked out, as in ordinary cases, through the partnership, or through the administratrix, *because all the parties united in ascertaining* it, and all that the Court is asked to do is to give it effect accordingly.

1 *Collyer on Part.* (6th Ed. *Wood's Notes*), Sec. 125.
1 *Story's Eq. Jurisp.*, 675.
2 Lindley on Part. (Ewell's Ed., 1881), 681-683.
Pierce vs. Wilson, 2 Iowa, 20.

Neither the Sprague corporation, nor Chaffee, its mortgage trustee, are *bona fide* purchasers.

This Court has the power, and, we submit, will se its way clear to enforce the equity of the complainants.

BUTLER, STILLMAN & HUBBARD,
Solicitors for Appellants.
WILLIM ALLEN BUTLER,
JAMES MCKEEN,
Of Counsel.

121-215

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Supreme Court of the United States.

OCTOBER TERM, 1886.

Charles G. Francklyn and William S. Hoyt, Committee of the person and estate of Edwin Hoyt, Appellants,
vs.
Amasa Sprague, et als, Appellees.

In Equity,
No. 75.

Appeal from the Circuit Court of the United States for the District of Rhode Island.

BRIEF FOR APPELLEES.

BENJ. F. THURSTON,
C. FRANK PARKHURST,
For the Appellees.

Supreme Court of the United States.

CHARLES G. FRANCKLYN AND WILLIAM S. HOYT, COMMITTEE OF THE PERSON AND ESTATE OF EDWIN HOYT, APPELLANTS, *vs.* AMASA SPRAGUE, *et als.*	IN EQUITY, No. 75.

BRIEF FOR APPELLEES.

Analysis of the Bill of Complaint.

This bill is brought by the complainant against Amasa Sprague; William Sprague, in his individual capacity; Fanny Sprague, in her individual capacity and in her capacity as administratrix of her husband, Amasa Sprague, deceased; Mary Sprague, in her individual capacity and in her capacity as administratrix of her husband, William Sprague, deceased, and in her capacity as former guardian of the complainant; the corporation the A. & W. Sprague Manufacturing Company, and Zechariah Chafee, in his capacity as trustee or assignee under deeds of trust made to him by the corporation, and by said Amasa Sprague, William Sprague, Mary Sprague and Fanny Sprague.

The bill first sets forth the proceedings in lunacy in New York, as a result of which the appellants were appointed a committee of the person and estate of the complainant, Edwin Hoyt, on the second day of April, 1874; and alleges that the complainant was, at the time of filing the bill, and had always been a person of unsound mind, incapable of transacting business or attending to or managing his affairs; that he attained his majority in 1870 and prior to the filing of the bill.

The bill, after reciting in substance that the property of the firm of A. & W. Sprague remained from 1843, the date of the death of Amasa Sprague, the elder, to the death of William Sprague, the elder, in 1856, in common without any accounting between William Sprague, the elder, and the representatives of Amasa, deceased, William Sprague the elder, having taken into copartnership just prior to his decease his own son Byron and his nephews, the defendants, Amasa and William, the only sons of Amasa the elder;—then proceeds to charge as the gravamen of the bill, that after the decease of William the elder, the defendants, Amasa and William, with Byron (whom Amasa and William afterwards bought out) formed the fraudulent scheme for their own purposes, gain and advantage, to keep the entire property, assets and business of the firm in their own possession and control.

That in pursuance of this fraudulent scheme, and to

carry out the same, they fraudulently induced and persuaded Fanny Sprague as administratrix of Amasa, and Mary Sprague as administratrix of William and guardian of the complainant, to remain passive, and not to move in their representative capacities to obtain liquidation of the affairs of the firms.

That, also, as a part of the scheme, they procured an act of the General Assembly, authorizing them to form a corporation, under the name of the A. & W. Sprague Manufacturing Company, and another corporation under the name of the Quidnick Company.

That, also, in pursuance of this scheme, they persuaded the said Mary Sprague, as guardian, to remain inactive and not to assert, protect or secure the rights of the complainant, then a minor, but to leave the entire management and control of the property in their hands, and fraudulently caused to be prepared and presented to Mary Sprague for her signature as guardian, a petition to the General Assembly of the State of Rhode Island, praying for authority to convey the interest of the complainant, and his brother and sisters, her wards, in such estate and property, to the corporations aforesaid. And that the said Mary Sprague was, by their representations and persuasions, prevailed upon to sign the same; and having procured her signature thereto, they afterwards caused the same to be presented to the General Assembly, William being then Governor of the State, in

pursuance of their said scheme; and that the General Assembly passed the resolution (Exhibit B), authorizing Mary Sprague to make conveyance of the complainant's interest in the copartnership property to the corporations.

And in further pursuance of the same fraudulent scheme, they caused the agreement marked Exhibit C, to be prepared and presented to the said Mary to sign, individually and as guardian and as administratrix, for an appraisal by referees of the copartnership property and that this agreement was contrived and *matured* "*for* "*the purpose, and with the intent of carrying out the afore-*"*said scheme of said Amasa and William Sprague of* "*keeping the possession and control of all the said property* "*and assets, and of effectually and completely preventing* "*any legal accounting or liability to account on their part* "*to the legal representatives of the said Amasa and of said* "*William Sprague, deceased, and of placing the title to* "*said property and assets in the names of corporations, so* "*as apparently to remove it from their possession, while* "*they should in fact retain the control and management of* "*the same, and with the further and fraudulent design of* "*securing and appropriating to themselves an interest in the* "*said property and assets, vastly greater than they were enti-*"*tled to, and correspondingly reducing the value of the dis-*"*tributive shares to which the children of Susan S. Hoyt* "*would be entitled as heirs and next of kin of William* "*Sprague, deceased*;"—the bill also charging that this

scheme was designed to prevent any legal accounting for vast sums of money derived from said property and assets; and recklessly used and misapplied by Amasa and William, the defendants, for personal and private expenses and operations, between the death of William Sprague, the elder, in 1856, and the organization of the corporations in 1865.

That the agreement, and the appraisal made under it, were false and fraudulent, and were based on fraudulent book entries, and false representations made by the defendants, Amasa and William, to the parties and referees therein named, and was contrived with the fraudulent design aforesaid, to enable them to keep control of the said assets and property, and to prevent any accounting and settlement which by law could have been claimed between all the parties named in said agreement.

That afterwards, and in pursuance of said scheme, said Amasa and William induced and persuaded the said Mary, as guardian, to execute a conveyance of the interest of the said complainant and the other children of Susan S. Hoyt in the copartnership property to the corporations, and thereupon to resign her guardianship; the bill then alleging that said petition was a wholly illegal act on the part of the guardian; that the resolution of the General Assembly was inoperative and of no effect, as respects the complainant; that the agree-

ment and appraisal were acts which it was illegal and incompetent for Mary Sprague, as administratrix and guardian, to perform, and not binding upon the complainant; and that the conveyances to the corporations were inoperative and of no effect, as regards the complainant.

Prayers of the Bills.

The bills pray that the complainant's rights may be established according to equity; that an account of the complainant's share or interest in the copartnership property may be taken, the value thereof ascertained and that the complainant's rights and equities in respect to the copartnership property may be ascertained and enforced.

That a trust in favor of the complainant in respect to said property and assets in the hands and possession of the A. & W. Sprague Manufacturing Co., and of Zechariah Chafee, Trustee and Assignee, may be decreed and established, that the complainant's share and interest therein may be ascertained and delivered to him, and that said Chafee as such trustee and assignee, may be decreed to pay the same to him in full out of said property and assets in his hands, with interest thereon, from the 9th of August, 1865.

Shortly stated, the complainant seeks to fasten a trust in his own favor upon the property in the hands of

Chafee, Assignee and Trustee of the A. & W. Sprague Manufacturing Co., and thereby create a lein upon the property which shall be an encumbrance superior to the claims of the general creditors of the A. & W. Sprague Manufacturing Co., and which must be fully satisfied before any dividend is paid to creditors out of the assigned estate.

It will appear from an inspection of the bill of complaint that the complainant charges that a corrupt and fraudulent scheme was made and entered into on the part of William Sprague, Amasa Sprague, Byron Sprague, Fanny and Mary Sprague, to accomplish certain purposes for their own benefit and with the design to deprive the complainant of the enjoyment of his property. This proposition, under any circumstances, would be a startling one, but it is especially so when we consider the persons who are involved in it, and the relation which they severally sustained to the complainant. This wholesale charge of meditated fraud requires the late Edwin Hoyt, the father of the complainant, to be involved as a co-conspirator. In fact the bill charges that he was a passive instrument in the scheme, by not opposing the fraudulent purposes of the other parties.

Cases Decisive of this Case.

In the cases of *Hoyt* vs. *Sprague*, and *Francklyn* vs. *Sprague*, decided by this court in 103 U. S., pp. 613–

637, all questions involved in this case, save the one question as to the lunacy of the complainant, which will be hereafter considered, were after elaborate argument at the bar, unanimously decided in favor of the respondents.

It will appear upon examination of the record in this case, that the bill of complaint and exhibits are substantially the same as in the cases above referred to, while the testimony (except with regard to the lunacy of the complainant) is the identical testimony used in those cases, it having been stipulated into this case.

All questions, therefore, as to

Fraud;

Jurisdiction of the Court of Probate to appoint guardian of complainant;

The constitutionality and validity of the resolution of the General Assembly, of March 4-9, 1863;

The validity of the agreement of reference "Exhibit C;"

The fairness of the award thereunder;

And the legality of the various steps by which the property of the complainant and of his brother and sisters was converted into corporate stock having been once decided, it would seem to us unnecessary, even highly indecorous, to take the time of the court in the re-argument of those questions.

The Lunacy of Complainant.

It only remains to consider the effect of the alleged lunacy of the complainant.

It appears (Rec., p. 275 *et seq.*) that the complainant, in the early part of 1874, was found, under a commission *de lunatico inquirendo*, in New York, to be a person of unsound mind and incapable of governing himself or of managing his affairs, and that he had been in the same state of unsoundness from his birth.

It will be noted that the record contains no evidence that the fact of his unsoundness was ever brought to the knowledge of any one of the respondents prior to 1874. On the contrary, so far as the complainants had any knowledge, they would be led to suppose that the complainant had sufficient capacity to transact his own business, from the fact that he was allowed by his brother-in-law, Charles G. Francklyn, who is now one of his committee in lunacy, and appears in this case as his next friend, to transfer to him (said Francklyn) over $30,000 worth of Quidnick stock; was further allowed by his father, Edwin Hoyt, Sr., to execute to him (said Hoyt, Sr.) a power of attorney to effectuate said transfer, and that, too, on the ninth of December, 1873, and within less than two months prior to the commencement of the lunacy proceedings above referred to.

(See sworn answers of respondents, Rec. pp. 62, 69–70–71, 80–81, 88–89–90–91, 98–99–100, 105–106–107, 110–111.

It would be strange indeed, if the relatives of the complainant in Rhode Island had suspected his entire incapacity for business transactions, when the members of his family in New York, with whom he lived, participated in, and permitted him to transact such important business.

The Rule of Law.

It has come to be accepted as the general rule of law, that where a contract is made in good faith with a lunatic, for a full and fair consideration, and has been executed without knowledge of the insanity, such contract will be sustained. Such contract cannot be rescinded by the lunatic or his representatives, unless the parties can be placed *in statu quo.*

In *Gribben* vs. *Maxwell*, 34 Kansas, 8, (S. C. Kansas, July 9, 1885), it was held that where a purchase of real estate from an insane person is made, and a conveyance is obtained in perfect good faith, before an inquisition and finding of lunacy, for a fair and reasonable consideration, without knowledge of the insanity, and no advantage is taken by the purchaser, the conveyance cannot be avoided by the insane person, or one representing him, if the consideration has not been returned to the purchaser, and no offer has been made to return the same.

In *Scanlan* vs. *Cobb*, 85 Ill., 296, (1877), which was

a bill by the guardian of a lunatic to set aside a deed of real estate executed by the ward, prior to the appointment of the guardian, Schofield, J., says, p. 299: "And "the English doctrine, and that recognized generally by "the courts of this conntry, is where a purchase from "an insane person is made and a conveyance is obtained "in good faith, for a sufficient consideration, and with- "out knowledge of the insanity, the consideration must "be returned before the conveyance will be avoided. "And the courts have gone further, and held, that "where persons apparently of sound mind, and not "known by the adverse party to be otherwise, enter into "a contract which is fair and *bona fide*, and which is exe- "cuted and completed, and the property which is the "subject of the contract cannot be restored so as to put "the parties in *statu quo*, such contracts cannot be set "aside either by the alleged lunatic or those who repre- "sent him."

So in *Ashcraft* vs. *De Armond*, 44 Iowa, 229, (1876), held that equity will not interfere to set aside a conveyance on the ground of insanity of the grantor, to one who shall have purchased in good faith and for value, in ignorance of the mental condition of the grantor.

The same doctrine is sustained in

Freed vs. *Brown*, 55 Ind., 310, (1876),

Eaton vs. *Eaton*, 37 N. J. Law, 108, (1874),

which were suits at law for the recovery of land alleged to have been conveyed by persons of unsound mind.

In *Yauger* vs. *Skinner*, 14 N. J. Eq., 389, (1862), the plaintiff had purchased land from one who was afterward found upon an inquiry in lunacy to have been of unsound mind for a time overreaching the date of the purchase. The purchaser had given a mortgage for part of the purchase money, prior to the inquiry, and after the adjudication of lunacy, the mortgage coming due, purchaser filed his bill, in the nature of a bill *quia timet*, asking the court to decree whether his title was good or bad, and if bad that he might be relieved from paying the mortgage, &c.

It was held that a court of equity will not, upon the application of a lunatic or those claiming under him, set aside a contract overreached by a commission of lunacy, if the purchase be fair, for a full consideration, and without notice of the lunacy to the purchaser, especially where the parties cannot be fully reinstated in the condition in which they were prior to the purchase.

In *Elliot* vs. *Ince*, 7, DeG. M. & G., 475, (1857), Lord Ch. Cranworth, after a full examination of the authorities, says p. 488, "The result of the authorities seems to be, "that dealings of sale and purchase by a person apparently sane, though subsequently found to be insane, "will not be set aside as against those who have dealt "with him on the faith of his being a person of competent understanding."

The same principles were enunciated and followed in

Price vs. *Berrington*, 7 Eng. Law & Eq. 254, (1851) bill filed by next friend to set aside conveyance of land by lunatic, made twenty eight years before the finding of lunacy;

Neil vs. *Morley*, 9 Vesey, 478, (1804) bill filed by lunatic and his committee to set aside purchases of personal property, and to have notes and money given in payment surrendered, &c.; finding in lunacy made after, and overreaching date of purchase;

Matthiessen vs. *McMahon*, 38 N. J. L. 542, (1876) suit at law for recovery of barrels and cooperage materials, sold and delivered by lunatic, prior to finding of lunacy;

Beavan vs. *McDonnell*, 9 Exch. 309, (1854) suit to recover money paid by lunatic upon contract to purchase lands; opinion by Parke, B. p. 314;

Molton vs. *Camroux* , 2 Exch. 486, (1848) affirmed in error, 4 Exch. 17, action to recover moneys paid by deceased as premiums on annuities which terminated with life, on ground of insanity and inability to contract;

Bank vs. *Moore*, 78 Pa. St. 407, lunatic held liable on note discounted by him, his defence of insanity being overruled;

Young Ex'r. vs. *Stevens*, 48 N. H. 133, suit by exec-

utor on implied promise to testatrix, for board, use and consumption of personal property and supplies, &c., involving the validity of a lease of real estate, and sale of personal property by testatrix to defendant, the plaintiff claiming that the lease and sale were void on account of the insanity of the testatrix;

See also,

Carr vs. *Holliday*, 5 Ired. Eq. 167.
Beals vs. *See*, 10 Barr, 56.
Dane vs. *Kirkwall*, 8 C. & P. 679.
Mut. L. Ins. Co. vs. *Hunt*, 79 N. Y. 541.
Rusk vs. *Fenton*, 14 Bush (Ky.) 490.

This view of the law presents a much stronger case for the respondents than is required to support the validity of the transactions in this case; for under the rule of the cases cited, the conversion of the complainant's interest in partnership property into corporate stock, having been found to have been made in good faith and for a full and fair consideration, without knowledge on the part of the respondents of his mental incapacity, would be sustained, even if the complainant had acted for himself, and not through the intervention of his guardian.

But the fact that the complainant was a non-resident minor, whose property in Rhode Island was under guardianship, in accordance with the laws of Rhode Island, is nowhere disputed. And the validity of the appoint-

ment of a guardian under those laws, and the power of such guardian over the disposition of the ward's property in Rhode Island, has been fully settled in the cases of *Hoyt* vs. *Sprague*, and *Francklyn* vs. *Sprague*, 103 U. S., 613–637.

How then does this fact of lunacy, becoming known nine years after the transactions complained of, make the action of Mary Sprague as guardian, and as administratrix, any the less valid in this case, than it was held to be in the case of the other children? At most the fact of lunacy, if known, would only have been an added reason for the appointment of a guardian, and for the invocation of the authority of the legislature and of the Court of Probate, to make the necessary change of investment of the property of the ward.

The argument seems to be that, because the complainant, more than nine years after the facts complained of and four years after he attained his majority, has been found to be a lunatic, therefore the acts of his guardian, done in pursuance of proper and lawful authority in dealing with the property of a non-resident minor,—no suggestion having ever been made at that time, that he was of unsound mind,—are to be declared void and set aside; thus totally ignoring the equities of the creditors under the trusts of the respondent, Chafee.

We think the statement of the argument is its suffi-

cient refutation, and that it is only worthy of the consideration of one who prefers subtlety to common sense.

We respectfully submit that the decree of the Circuit Court dismissing the bill, should be affirmed.

BENJAMIN F. THURSTON,
C. FRANK PARKHURST,
For the Appellees.

121-215

Supreme Court of the United States.

CHARLES G. FRANCKLYN *et al.*, COMMITTEE APPELLANTS, *vs.* AMASA SPRAGUE, *et als.*	IN EQUITY, No. 75.

SUPPLEMENTAL BRIEF FOR RESPONDENTS.

1. The bill of complaint and the answers in this case, are the same as in the cases of *Hoyt and Francklyn* vs. *Sprague*, 103 U. S., p. 613, with the exception that the proceedings for the appointment of the appellants as a committee in lunacy of Edwin Hoyt, the complainant, are set forth in the bill.

2. The issue in the case, as made at the hearing, by the appellants, is as follows: that it appears upon the report of the referees, (Rec. p. 31,) that there was found due from the co-partnership of A. W. Sprague to Mary Sprague, guardian of the heirs of Susan Hoyt, the sum of $188,333.33; that one fourth of this sum, or $47,083.34, was the share of Edwin Hoyt, Jr., the complainant, therein; and that the same was inventoried as a part of

the estate of Edwin Hoyt, Jr., upon the appointment of William Sprague in October, 1866, to succeed Mary Sprague as guardian of the said Edwin Hoyt, Jr., (Rec. p. 148); that this sum was not invested in shares of the capital stock of the A. & W. Sprague Manufacturing Company by Mary Sprague, the guardian; that a lien in favor of the said Edwin Hoyt, Jr., on the property of the A. & W. Sprague co-partnership existed upon any property remaining after payment of the debts of the co-partnership; that the property of A. & W. Sprague was conveyed to the A. & W. Sprague Manufacturing Company, by the said Mary Sprague as guardian, in concurrence with all other parties interested therein (Rec. pp. 43-45), and that said lien follows the property so conveyed, and attaches to any of the same now remaining, in priority of the creditors of A. & W. Sprague Manufacturing Company under the deed of trust to Zechariah Chafee, dated Nov. 1, 1873, Exhibit O, (Rec. pp. 50, 56), and the deeds of assignment Exhibits P & Q (Rec. pp. 58-64).

3. The pleadings in the case do not raise the controversy now made at the bar. No allegation is made that the same sum of $188,333,33 was not invested in the corporation of A. & W. Sprague Manufacturing Company, so as to raise that issue, and allow of full proof thereon, nor is there any evidence in the record as to the origin of this allowance by the referees, except a passage in a letter from William Sprague to W. S. Hoyt, (Rec. p. 218). No other evidence on the subject, with the exception of the

item appearing in the inventory filed by Mary Sprague of the estate of Edwin Hoyt, Jr., under the head of "Dividend due from A. & W. Sprague as cash March 31, "1865, with interest from that date, $47,083.34," (Rec. p. 136,) and in the inventory filed by William Sprague, upon succeeding Mary Sprague as guardian, under the head of "Dividend due from A. & W. Sprague as cash "March 31, 1865, $47,083.34," (Rec. p. 148).

No allegation is made in the bill that either the Trust Deed to Chafee, dated Nov. 1, 1873, or the subsequent assignments to Chafee dated April 6, 1874, were void, and no issue is or could be by the answers made on this question.

There is no statement in the charging part of the bill of the particular equity now relied upon, and no foundation laid by the case for the claim that there is any property now in existence and not distributed under the trust deed, among the creditors of the A. & W. Sprague Manufacturing Company, which belonged to A. & W. Sprague and which stands charged with the lien claimed to exist.

The prayers of the bill are not consonant with the case for relief now for the first time orally stated.

4. The Constitutionality of the Resolution of the General Assembly of Rhode Island authorizing Mary Sprague's guardian to make conveyance of all the right,

title and interest of the Hoyt minors in and to all the estate and property, real, personal and mixed, owned, controlled or managed by the firm of A. & W. Sprague, has been established, as well as the regularity and validity of the proceedings had in execution of the same, (103 U. S., 613). (Resolve Rec., p. 22.)

5. Mary Sprague as guardian of the Hoyt minors, by her conveyance, dated Aug. 9, 1865, did convey in the broadest terms all and every right, title, interest, claim and demand which the said Hoyt minors had in and to all and singular the property and estate of every kind, in the possession of or held managed or controlled by the firm of A. & W. Sprague (Rec., pp. 43-45, Exhibit K).

6. Under the provisions of the agreement of reference (Exhibit C, Rec. pp. 23-29) the general object of which was to have an amicable settlement and ascertainment of the rights and shares of all the persons interested in the common Sprague properties, it was specially provided (Rec., p. 24) that the amounts due from the firm to each party in every capacity, should be ascertained and stated by the referees, and it was further made a condition that the A. & W. Sprague Manufacturing Company, (p. 26), the organization, of which was contemplated by the recitations in the agreement, should assume the amount of liabilities of the firm, at the date of the delivery of the conveyance of the property thereafter contemplated to be

made, as such liabilities should be reported by the referees.

7. In the deed of conveyance of August 9, 1865, the grant was made to the Manufacturing Company (Rec. p. 44) "upon condition that the grantees are to assume the lia-"bilities of said firm of A. & W. Sprague in accordance with "said agreement of reference hereinbefore referred to."

8. At the date of such conveyance, Edwin Hoyt, Jr., was a minor and no proceedings had been taken to declare him a lunatic, or a person of unsound mind incapable of managing his estate. He was at this period sixteen years of age. He attained his majority July 16, 1870. No steps were taken to sue out a commission in lunacy until the early part of 1874, after the Sprague failure, and the execution of the trust deed for the benefit of creditors. Francklyn one of the committee dealt with Edwin Hoyt, Jr., as a person of competent understanding as late as December 9, 1873, by purchasing from him his interest in the stock of the Quidnick Company ascertained by the same referees under Exhibit C, to the amount of $30,400 (Rec. p. 69); and the father of Edwin Hoyt, Jr., on the same date received from Edwin Hoyt, Jr., a power of attorney to act in transferring the same stock. It does not appear in any part of the record that any notice of the mental incapacity of Edwin Hoyt, Jr., was brought home to the respondents, prior to the filing of the bill of complaint in this case.

9. It was a part of the general scheme of settlement of

the interest of the parties concerned in the Sprague property, Exhibit C, that the value of the interests of the several parties in the general Sprague estate should be ascertained and stated, (see clause 2d, Rec. p. 24 of Ex. C,) and also that the amount due from the firm to every one of the parties should, in addition, be ascertained, (see clause 3d, p. 24, of Ex. C). The referees reported the interest of Mary Sprague as guardian of the Hoyt children in the general property of A. & W. Sprague as $652,753.68, and in addition under the 3d clause referred to, found that there was due, as a debt, $188,333.33. It was within the proper purview of the scheme that the ascertained interests, or fractional shares of the several parties in the corpus of the estate should be converted into stock, and that the sums of money found due for any consideration to the several parties should be represented by a money claim against A. & W. Sprague to be assumed as a liability in favor of such parties by the A. & W. Sprague Manufacturing Company and that the money indebtedness from any one of the parties to A. & W. Sprague should be paid by such parties into the assets of the firm, to pass over by the deed of conveyance, into the hands of the corporation. There is no pretence in the bill that the sum of $131,052.38, found by the referees to be due from Wm. Sprague to the firm, or that the sum of $81,851.84 found to be due from Amasa Sprague, (Rec. p. 31,) was not duly paid over in settlement of the indebtedness and passed into the hands of the corporation.

10. The necessary effect of Exhibit C, which was duly

executed by all parties *sui juris* and lawfully executed by Mary Sprague as guardian, for the minor Hoyt children, within the proper scope of her power as a property guardian, coupled with the effect of the deed of conveyance of August 9, 1865, (Ex. K, p. 44,) was to vest the entire property of A. & W. Sprague in which her wards had any interest, or upon which they would have had any lien in the liquidation of the co-partnership affairs, in the A. & W. Sprague Manufacturing Company, and the corpus of such property passed to the corporation by a *bona fide* transaction, wholly discharged of any equitable lien in favor of any one of the parties. Mary Sprague was not a member of the firm of A. & W. Sprague, nor were her wards members of that firm. That co-partnership was composed of Amasa and William Sprague. The wards of Mary Sprague, as the result of their distributive shares in the estate of their grandfather, which had been by the consent of their guardian, invested in or left under the management of A. & W. Sprague, had a claim to have their interests liquidated and ascertained; and the method pursued to find out their fractional shares of the property as a whole, and in addition thereto the amount specifically due to them as an indebtedness from the firm, has been determined by this court to have been legitimate and proper.

11. Special legislative authority was not needed to enable Mary Sprague to sell the property of her wards, she had that authority under the general statutes of Rhode

Island through the power of the Probate Courts. Special authority was needed only to enable her to convert the share of her wards in the co-partnership property into shares of stock in a manufacturing company.

12. It is inmaterial that the sum of $48,083.34 was not invested in the capital stock of A. & W. Sprague Manufacturing Company. Mary Sprague, while guardian, held this indebtedness as an asset belonging to her ward's estate, against the A. & W. Sprague Manufacturing Company, who were bound under the agreement of reference to pay the same. William Sprague succeeded Mary Sprague in the guardianship of the Hoyt minor children and had the power to collect this money belonging to his ward's estate. Beyond doubt he did not pay it over to the ward on attaining his majority but it remained in the hands of the corporation for three years and more after that period, and until the failure of the corporation. Presumably this was permitted by Edwin Hoyt the father of Edwin Hoyt, Jr., who conceived that it was for the best interest of his son that it should so remain, and no demand appears to have been made by any person representing the interest of Edwin Hoyt, Jr., for an account of his estate, nor did William Sprague as guardian make any settlement with his ward. In fact, no settlement was made with any of the Hoyt children, except as the others drew money from time to time for their occasions, as appeared in the record of the former case.

13. The property having passed to the corporation,

wholly discharged of any lien in favor of the Hoyt minors, based upon any rights which they might otherwise possess in equity upon a liquidation of the affairs of A. & W. Sprague, as the effect of the lawful acts of their guardian in the premises, the remedy of the complainant Edwin Hoyt, Jr., for any failure to account on the part of William Sprague for the sum of money in question, is upon the bond of William Sprague now on file as guardian in the proper probate office. And the remedy is not after the lapse of, at this date, twenty years, against the property of A. & W. Sprague Manufacturing Company in the hands of Chafee, Trustee and Assignee.

14. The A. & W. Sprague Manufacturing Company was a *bona fide* purchaser for value of the estate, assets and effects of A. & W. Sprague. The good faith which characterized the whole transaction in the ascertainment of the interests of the respective parties who had claims to the Sprague property, and the formation of the corporation in the property of which the proper shares of the different members of the families could be represented by a definite number of shares, must be admitted, and by this court has been specifically established.

The corporation paid, as the value of the share of the Hoyt minors, $652,753.68. This represented the entire value of their share in the common estate. In addition, however, to this share, the referees found that they ought to be paid the sum of $188,333.33, in cash. Very likely

the considerations upon which this cash allowance was made by the referees, have been correctly stated at the bar; but there is nothing in the referees' report that discloses the foundation upon which this allowance was made to the Hoyt children, or the basis on which the sum of $6,436.58 was allowed as a cash payment due to Fanny Sprague, nor does it appear upon what grounds indebtedness, payable in cash of large amounts, was found due from William and Amasa Sprague. The issuance of stock to the amount of $652,753.68, was a full equivalent for the value of the minor's shares in the property. The sum of $188,333.33, found due from A. & W. Sprague, was assumed by the A. & W. Sprague Manufacturing Company, and, in the then condition of that corporation, and as such condition continued for seven years afterwards, the obligation would be deemed as solid personal security for the payment of money as could be taken from any commercial house in the world.

The A. & W. Sprague Manufacturing Company being thus established to have been a *bona fide* purchaser of the A. & W. Sprague assets and estate on the 9th of August, 1865, it is impossible under the principles established by this court in its former opinion (103 U. S. 613), to fasten a lien in 1878 upon any of the property which passed to the corporation from A. &. W. Sprague under said deed in priority of the claims of creditors of the corporation under the trust deed to Chafee, of November 1, 1873. The adjudication in 1874, that Edwin Hoyt, Jr., was an imbecile,

does not alter the equities. The corporation in 1865 dealt with his properly-constituted property guardian, and with the full concurrence and consent of his father and natural guardian, Edwin Hoyt. Nor did his brother and sisters after they had attained their majorities, find any fault with the manner in which the Hoyt estate was invested and managed, as this court has already seen in the former controversy. It follows, therefore, that the purchase having been made in good faith, and for a full consideration of the interest of the Hoyt children, the line of authority cited in our opening brief, in support of the now well settled doctrine, that a purchase from a lunatic under like circumstances and similar attending facts, cannot be subsequently avoided, directly apply.

15. With respect to the position that the trust deed and subsequent general assignments to Chafee are void, if the matter can be material at all under the pleadings in this case, we have only to say that the decision cited in 49th Connecticut 282, was based largely upon a peculiar provision of the Connecticut Statutes relating to the identification of property conveyed by deed. The Supreme Court of Rhode Island in a well considered opinion *Austin* vs. *Sprague*, 14 R. I., 464, has established the validity in Rhode Island of the trust deed, and has also qualified and explained the case of *Gardner* vs. *Commercial Bank*, 13 R. I., 155, cited by the appellants.

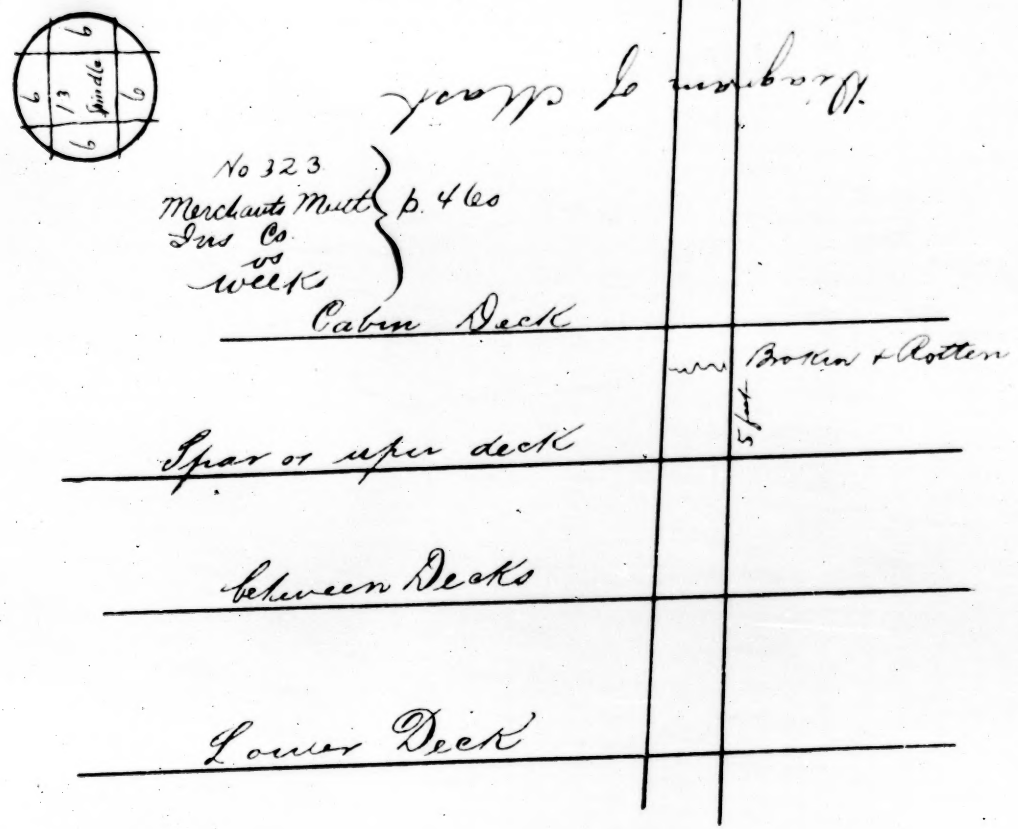
16. Finally, to emphasize our position, that the issue

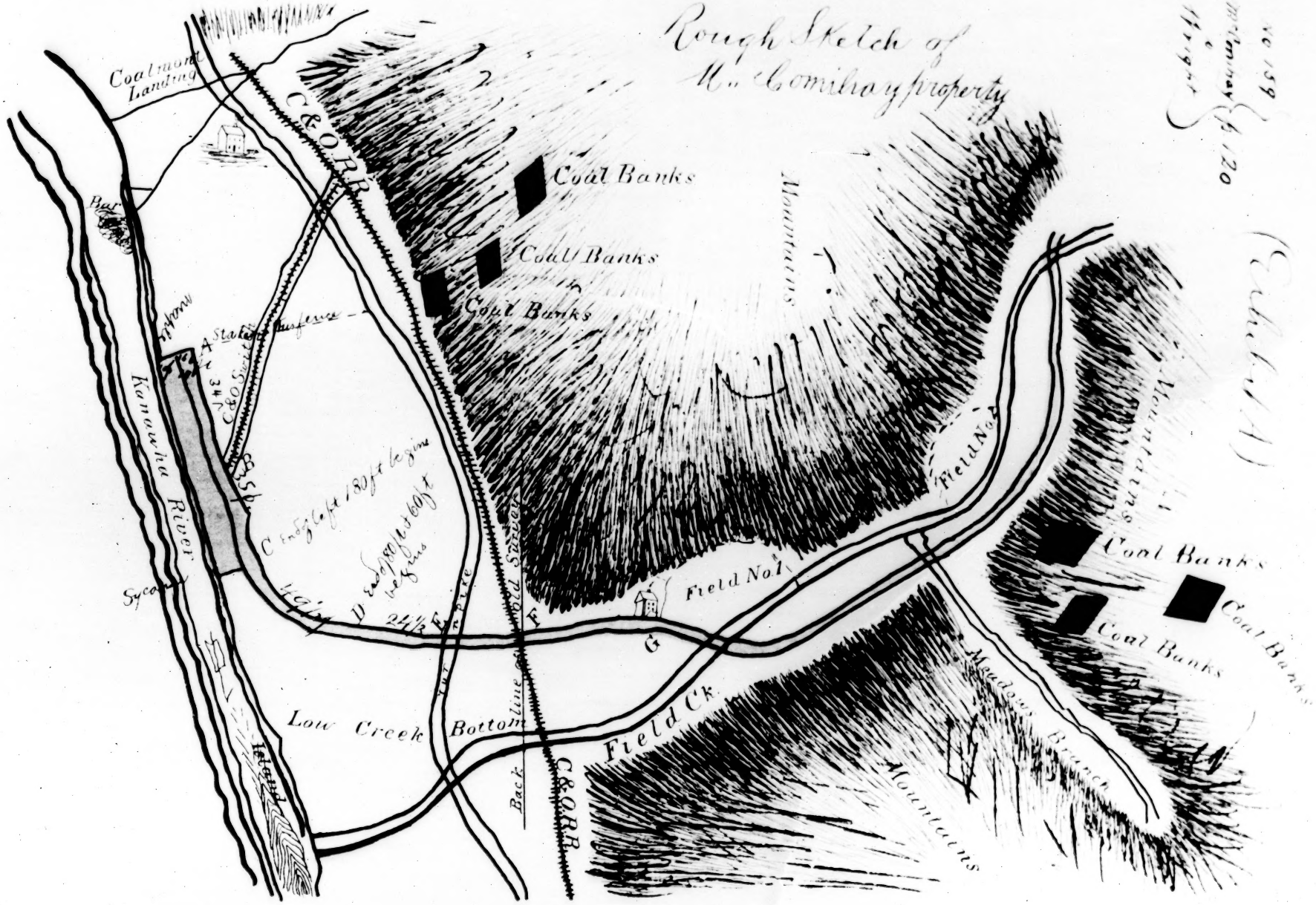
now made orally at the bar, is not property based upon the bill as drawn, we have to say, that in the present case in view of the prior decision of this court in 103 U. S., 613, it must necessarily be conceded that Edwin Hoyt, Jr., is a stockholder in the A. & W. Sprague Manufacturing Company; if the bill had been framed so as to raise the issue now made, and for the first time brought to the notice of the appellees on the morning of the hearing of this cause in this court, the defendants would have had the right to set up the fact that under the manufacturing corporations' law of Rhode Island, every stockholder in the A. & W. Sprague corporation is liable *in solido* for all the debts of such corporation, and consequently if it were true, that there is any property or estate in the hands of the trustee or which has been sold by him for distribution among the creditors of the corporation to which the supposed equitable lien in favor of Edwin Hoyt, Jr., attaches, all such property in the marshaling of the assets of the corporation must first be subjected to the payment of the debts of the corporation for which every stockholder at the time of the failure stands absolutely bound.

If, therefore, we respectfully submit, the court should fail to hold that the supposed lien in favor of complainant was lost by the effect of the transfer of the property *bona fide* and for a valuable consideration to the corporation in 1865, and should consider that for any reason the issue now made is triable under the pleadings, then in view of the fact that it is notorious that the bulk of the Sprague

estate has been sold to purchasers and converted into money, and distributed among creditors, the record should be re-opened to allow the respondents to avail themselves of the now judicially-established as well as conceded fact, that Edwin Hoyt, Jr., was the owner at the date of the Sprague failure of 439 shares of the stock in the manufacturing company, and as such stockholder is personally liable, under the law of Rhode Island as it was at that period of time, for all the indebtedness of the corporation, existing at the time of such failure.

BENJ. F. THURSTON,
C. FRANK PARKHURST,
Solicitor for Appellees.


No 323
Merchants Mut
Ins Co
vs
Wells
p. 460
Cabin Deck
Spar or upper deck
between Decks
Lower Deck
Broken + Rotten
5 feet


Rough Sketch of
Mr Comiharys property
Coalmont Landing
C & O R R
Coal Banks
Coal Banks
Coal Banks
Mountains
Kanawha River
Field No 2
Field No 1
Coal Banks
Coal Banks
Coal Banks
Low Creek Bottom
Field Ck
Mountains
C & O R R